

*File # 129*

# **SAVINGS AND LOAN STUDY COMMISSION**



**REPORT TO THE  
GOVERNOR AND THE  
1981 GENERAL ASSEMBLY  
OF NORTH CAROLINA**

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TO THE MEMBERS OF THE 1981 GENERAL ASSEMBLY

Transmitted herewith is the report prepared by the Savings and Loan Study Commission. The study was conducted pursuant to House Bill 1350 (ratified Chapter 1021) of the 1979 General Assembly of North Carolina (Second Session) and this report is submitted to the members of the General Assembly for their consideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas L. Drew".

Thomas L. Drew  
Chairman, Savings and Loan Study  
Commission



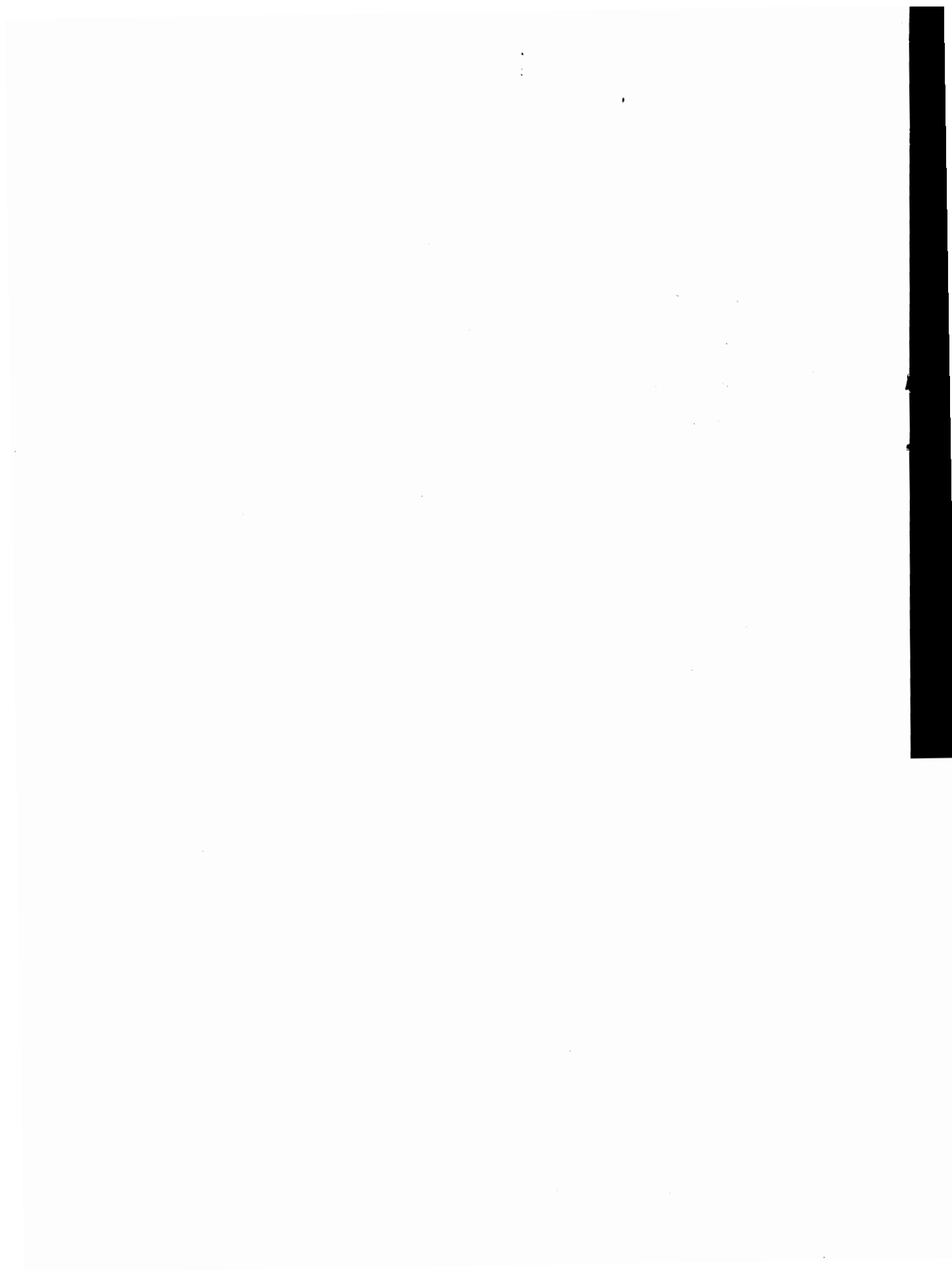


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FINAL REPORT OF THE  
SAVINGS AND LOAN STUDY COMMISSION  
December 29, 1980

The Savings and Loan Study Commission had the rare opportunity of bringing together savings and loan executives, savings and loan directors, legislators, members of the media, and citizens, to discuss and compose a new law governing local financial institutions.

At the request of the Study Commission, the Savings and Loan Division of the Department of Commerce provided the Commissioners with a draft of an act (referred to as Chapter 54-B) based on a combination of Subchapter 1 of Chapter 54 and Chapter 54-A plus other legislative proposals which have been made during the last three years. Using this as a "straw man" the Commission initially proceeded to rewrite the act using two sub-committees. The sub-committees were chaired by Heriot Wilkins and Charles Holt. Their function was to revise one half of Chapter 54-B each. The entire Commission reviewed their work and further revised the draft, completely reviewing the draft several times. The Commission met 18 times between March 1 and December 10 to debate the philosophy of a state system of mutual and stock savings and loan associations, and to write a practical law which would protect the depositor and yet provide the association with as much managerial decision making power as possible. What follows is an explanation of the committee's deliberations and intentions in developing this proposed statute to govern savings and loan associations.

Some of the primary considerations taken into account by the Study Commission were:

- (1) Federal legislation greatly liberalized the capacity of federally chartered savings and loans and those insured by FSLIC. By the Depository Institutions De-regulation and Monetary Control Act of 1980 these savings and loans will be allowed new investment powers, trust authority, NOW accounts (interest bearing checking accounts) and commercial lending powers. Competitively, state chartered savings and loans should be given the same option as federally chartered savings and loans and those insured by FSLIC.
- (2) Regulation "Q" is being phased out over six years. this regulation places a ceiling on the rate of interest paid to holders of passbook accounts. It also allows savings and loans to offer a slightly pre-

ferential interest rate to savers which banks could not offer. Phasing out this regulation eliminates one advantage savings and loan associations formerly had in the market place.

- (3) The Federal Home Loan Bank system does not charge supervisory fees to member associations. Federally chartered savings and loan associations buy stock in the Federal Home Loan Bank system and receive dividends on this stock. The stock also becomes an asset of the association. This means that state chartered savings and loans must pay greater annual cost in the form of supervisory fees. This competitively disadvantageous.

Much of the time of the Commission was spent discussing philosophical differences between a savings and loan association and a bank. It was clear to the Commission that the savings and loan associations of North Carolina had no great desire to compete with banks, but the broad powers granted to federal associations put them in direct competition with banks by authorizing largely similar services. While state associations may not want these broader powers, we recognize the necessity of offering the same services as federal associations in order to compete in North Carolina. No state chartered institution should be handicapped by law so that it cannot compete with a financial institution similar in purpose and in character but under different authority. The Commission deliberated at great length where such a line should be drawn.

Another major concern of the Commission throughout this study session was the power of the executive administering the Savings and Loan Division. In the past this administrator had broad discretionary power because of his stated authority. Much of the authority and responsibility of the Commission to which the administrator reports on his quasi-judicial responsibilities had never been defined. The Study Commission considered extreme circumstances under which an irresponsible administrator might act and provided safeguards to an abuse of power. While the Commission sought not to follow a direction which made the administrator impotent, the Commission did seek to provide balances in the administration of the law. Wherever feasible, the responsibility of making decisions which impacted the economic and operational capacity of associations was given to the Savings and Loan Commission. In many cases, criteria to be used by the administrator to make decisions were specified. Also, an appeals process was developed for the association which disagreed with an administrator's decisions.

On the other hand, the administrator was given specific authority to issue cease and desist orders in cases where it was determined that a savings and loan association was operating in a manner that could jeopardize its members or stockholders. Once again the criteria for such action were carefully considered and documented in the law. In cases where powers of the administrator were expanded, (such as audits, right to access of books, issuance of subpoenas) the ultimate authority of the Commission is specified by the law.

The Commission addressed the confidentiality of information. This section closely parallels statute 5399 of the state banking law. It seeks to allow public access to information when fundamental changes in the structure of an association are proposed, yet guarantee the privacy of investors and depositors at all other times.

Penalties for violating this act were developed. The civil and criminal penalties are specific and conform to the Fair Sentencing Act. To avoid conflicts with Chapter 14 of the North Carolina General Statutes, neither specific fines nor terms of imprisonment were set. The criminal section merely classifies whether a given violation is to be charged as a misdemeanor or felony and what class of felony is to be charged.

In examining the corporate structure of savings and loan associations, the Commission sought to preserve the unique qualities of the local savings and loan association without hampering its competitive capacity. The Commission specified the process for chartering, conversion and the establishment of new branches, as well as criteria by which applications for these corporate changes are to be evaluated.

One goal of the Study Commission was to shorten the time from application to approval to license to "open for business". Time from completed application to "open for business" cannot be longer than 270 days. The Commission did not want to encourage corporate creations and changes. However, it did not want changes to be so cumbersome that a state chartered savings and loan would convert to a federal charter to avoid the supervisory system in North Carolina. The Commission felt that applications for corporate changes should not sit dormant for long periods of time thereby preventing other associations from applying for similar geographic locations. It was also important to regulate the ability of institutions headquartered outside the state to do business in the state. The intent was to prevent associations from locating in other states with fewer regulations, then doing

business as a North Carolina savings and loan association. Some difficulty was had with the meaning of the term "conducting a savings and loan business", and an opinion was sought from the Attorney General's office. In a letter of August 19, from Mr. Miller Rich, Jr., Deputy Attorney General, the following statement was made.

"As you will note from reading the enclosed section of Strong's each case turns on it's own facts. It is impossible to give you a general statement which is applicable to all situations. I certainly feel, however, that if a foreign savings and loan association made a loan in North Carolina and took a deed of trust of the real estate recorded here that this would constitute, 'doing business in the state'. Mere mailings by a North Carolina resident of funds to another state for deposit in a savings and loan account probably does not constitute doing business in North Carolina, but I cannot cite you any authority to this fact".

Many of the former features governing withdrawable accounts and loans were not changed. Changes occurred where the federal legislation provided a competitive advantage for federally chartered and FSLIC insured savings and loans. NOW accounts, trust powers and mutual capital certificates are examples of new features added to this proposed legislation. Otherwise, the Commission sought to write a law which fostered the traditional business of savings and loans.

For the law governing investments, the Commission tried to provide investment powers to state savings and loan associations which had been so provided for the federally chartered associations. It is the feeling of the Study Commission that during times of economic uncertainty, state chartered savings and loan associations should have maximum flexibility in the capacity to generate funds which could be used for home loans. Once again the authority of banks as well as federally chartered savings and loans was studied. However, the Commission's considerations were tempered with a feeling that the law should not allow savings and loan associations to be used as investment shelters because of tax advantages for certain investment opportunities provided only to savings and loan associations.

Service corporations were discussed at length. The Commission examined the possibilities of the "tail wagging the dog" but felt that initial investment restraints would govern the



amount of activity and interest our savings and loan associations put into service corporations.

While the federal savings and loan associations and FSLIC insured savings and loan associations are governed by a more liberal standard for a general reserve account, the Commission felt that it was the duty of the Savings and Loan Division to hold a more conservative figure. A general reserve account is required to guard against bad loans and business failure. Several Commission members felt that the primary safeguard to business failure was insurance. Therefore, the responsibility to make a savings and loan solvent should not rest solely on the reserve account. On the other hand, if insurance is required by law (which it is) then that guarantee is provided. Therefore, the reserve account could be viewed merely as a safeguard against bad debts. The Commission also realized that by setting a range with low figure which is lower than the current five percent, the industry would have a difficult time moving from a low percentage to a higher requirement at some later date.

The administrator admitted that any standard based on liabilities for the reserve account was very difficult to defend. The Commission agreed that a better reserve level would be based on assets and risk. Evaluation of this approach would require use of a data bank and computerized experimentation, setting different reserve percentages for assets of varying risk levels. The Study Commission had neither the time nor access to the equipment needed for this study, but it could be done by the Savings and Loan Division or the North Carolina Savings Guaranty Corporation, if computer facilities are made available.

Therefore, the Study Commission inserted language which would require the Savings and Loan Commission to set, on a regular basis, a reserve requirement based on assets of each savings and loan and on the risk of its business. The Study Commission unanimously agreed that this would be a more accurate method of measuring reserve and economic competence in a savings and loan association.

In considering mutual deposit guaranty associations, the Study Commission was concerned that there were no standards of economic solvency required. In other words, it is easier to become a guaranty association than it is to become a savings and loan association. The Commission made two major changes:

1. To increase the number of savings and loans required to form a guaranty from 10 to 25:
2. To require a reserve for losses to be based on a percent of the total liability of the members which the guaranty was covering.

Consistent with the requirement for insurance companies, the Study Commission felt that reinsurance could be included in this reserve requirement. The Study Commission discussed the philosophy of having the Savings and Loan Division regulate guaranty associations. While the savings and loan manager and legislators on the committee felt that it was a difficult task for the Savings and Loan Commission, at this point the regulation of the guaranty should remain in the Savings and Loan Division. The Study Commission recognized the possibility of conflict of interest where the administrator and Commission are regulating all state chartered associations and the companies that insure some state chartered savings and loans. Consideration was given to determining if mutual deposit guaranty associations should be regulated by another division of state government. The Study Commission recommends that regulation of mutual deposit guaranty associations be studied further, either by legislative committee or another study commission.

The Study Commission generally felt that the Savings and Loan Commission should set rates only in cases where a particular association was in danger of becoming insolvent. Otherwise, each association should be free to set its own rates and the Savings and Loan Commission should not be setting rates industry wide.

In conclusion, the proposed statute submitted by the Savings and Loan Study Commission has updated the current law and made it consistent with federal regulations. The future of the savings and loan industry was kept in mind at all times, as was the preservation of a dual system of state and federally chartered savings and loan associations. Brevity and clarity were goals of the rewrite, and the new law in many ways is shorter than the combination of Subchapter 1 of Chapter 54 and Chapter 54A. The Commission feels that it has properly implemented its legislative charge, and it respectfully submits its proposed legislation for review.



Thomas L. Drew  
Chairman, Savings and Loan Study  
Commission

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Savings and Loan Associations

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## APPENDIX A



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1979  
RATIFIED BILL

CHAPTER 1021

HOUSE BILL 1350

AN ACT TO CREATE A SAVINGS AND LOAN STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is created the Commission to Study the Savings and Loan Statutes contained in Chapters 54 and 54A of the North Carolina General Statutes. The Commission shall consist of 16 members as follows: The President of the Senate shall appoint four members, one of whom is a member of the Senate and one of whom is an officer of a stock savings and loan association. The Speaker of the House of Representatives shall appoint four members, one of whom is a member of the House of Representatives and one of whom is an officer of a mutual savings and loan association. The Secretary of Commerce shall be, ex officio, a member with full voting rights (or, the Secretary may designate the Administrator of the Savings and Loan Division to serve in his stead). The Governor shall appoint seven members. Any vacancy shall be filled by the appointing authority who appointed the person causing the vacancy.

Sec. 2. The Commission shall meet initially at the call of the Secretary of Commerce and shall elect from its membership a chairman and vice-chairman. The Commission shall study the statutes governing the savings and loan industry in North Carolina and shall prepare recommended revisions, additions and other modifications deemed necessary to produce the clearest and

simplest statutory text that will effectuate the recommendations of the Commission.

Sec. 3. The Commission shall submit a written report to the Governor and the General Assembly not later than 30 days prior to the convening of the 1980 adjourned session of the 1979 General Assembly. That report shall be the final report of the Commission.

Sec. 4. The Commission may employ necessary professional and clerical assistance, and may hold its meetings in the State Legislative Building.

Sec. 5. Members of the Commission who are also members of the General Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3. Members of the Commission who are officials or employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem and allowances at the rates set forth in G.S. 138-5.

Sec. 6. There is appropriated from the General Fund to the Department of Administration, for the 1979-80 fiscal year, in addition to all other funds appropriated, the sum of twenty-five thousand dollars (\$25,000) to pay the expenses of the Commission. When the Commission submits its final report to the Governor to be transmitted to the 1980 adjourned session of the General Assembly, any part of this appropriation not then expended or committed for Commission expenses shall revert to the General Assembly at that time.

Sec. 7. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified,  
this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

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APPENDIX B





# GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1981



HOUSE DRH7400

Short Title: Savings and Loan Associations.

(Public)

Sponsors: Representatives Cook and Charles Holt.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL SUBCHAPTER I OF CHAPTER 54 OF THE GENERAL  
3 STATUTES, RELATING TO BUILDING AND LOAN ASSOCIATIONS, BUILDING  
4 ASSOCIATIONS, AND SAVINGS AND LOAN ASSOCIATIONS; AND TO REPEAL  
5 CHAPTER 54A OF THE GENERAL STATUTES, RELATING TO STOCK-OWNED  
6 SAVINGS AND LOAN ASSOCIATIONS; AND TO ENACT A NEW CHAPTER 54B  
7 OF THE GENERAL STATUTES TO BE ENTITLED, "SAVINGS AND LOAN  
8 ASSOCIATIONS".

9 The General Assembly of North Carolina enacts:

10 Section 1. Subchapter I of Chapter 54 of the General  
11 Statutes is hereby repealed.

12 Sec. 2. Chapter 54A of the General Statutes is hereby  
13 repealed.

14 Sec. 3. A new Chapter 54B, entitled "Savings and Loan  
15 Associations", is hereby enacted and reads as follows:

16 "ARTICLE 1.

17 "General Provisions.

18 "§ 54B-1. Title.--This Chapter shall be known and may be cited  
19 as 'Savings and Loan Associations'.

20 "§ 54B-2. Purpose.--The purpose of this Chapter is:

21

1       (1)    to provide for the safe and sound conduct of the business  
2   of savings and loan associations, the conservation of their  
3   assets and the maintenance of public confidence in savings and  
4   loan associations;

5       (2)    to provide for the protection of the interests of  
6   customers and members, and the public interest in the soundness  
7   of the savings and loan industry;

8       (3)    to provide the opportunity for savings and loan  
9   associations to remain competitive with each other and with other  
10   savings and financial institutions existing under other laws of  
11   this and other states and the United States;

12      (4)    to provide the opportunity for savings and loan  
13   associations to serve effectively the convenience and advantage  
14   of customers and members, and to improve and expand their  
15   services and facilities for such purposes;

16      (5)    to provide the opportunity for the management of savings  
17   and loan associations to exercise prudent business judgment in  
18   conducting the affairs of savings and loan associations to the  
19   extent compatible with the purposes recited in this section; and

20      (6)    to provide adequate rulemaking power and administrative  
21   discretion so that the regulation and supervision of savings and  
22   loan associations are readily responsive to changes in economic  
23   conditions and in savings and loan practices.

24      "§ 54B-3.   Applicability of Chapter.--The provisions of this  
25   Chapter, unless the context otherwise specifies, shall apply to  
26   all State associations.

27      "§ 54B-4.   Definitions and Application of Terms.--(a) The  
28

1 terms 'building and loan association' and 'savings and loan  
2 association' when used in the General Statutes, shall mean an  
3 association and shall be interchangeable. Use of either term  
4 shall be construed to include the other unless a different  
5 intention is expressly provided.

6 (b) As used in this Chapter, unless the context otherwise  
7 requires, the term:

8 (1) 'Administrator' means the Administrator of the Savings and  
9 Loan Division.

10 (2) 'Aggregate withdrawal value of withdrawable accounts'  
11 means the total value of all withdrawable accounts held by an  
12 association.

13 (3) 'Application' means the completed package of the  
14 application to organize a State association, establish a branch  
15 office or conversion of structure of a savings and loan  
16 association which the administrator considers in making his  
17 recommendation.

18 (4) 'Associate' when used to indicate a relationship with any  
19 person, means (i) any corporation or organization (other than the  
20 applicant or a majority-owned subsidiary of the applicant) of  
21 which such person is an officer or partner or is, directly or  
22 indirectly, the beneficial owner of ten percent (10%) or more of  
23 any class of equity securities, (ii) any trust or other estate in  
24 which such person has a substantial beneficial interest or as to  
25 which such person serves as trustee or in a similar fiduciary  
26 capacity, and (iii) that person's spouse, father, mother,  
27 children, brothers, sisters, and grandchildren; the father,  
28

1 mother, brothers, and sisters of that person's spouse; and the  
2 spouse of that person's child, brother or sister.

3 (5) 'Association' includes a State association or a federal  
4 association unless limited by use of the words 'State' or  
5 'federal'.

6 (6) 'Borrowers' means those who borrow funds from or in any  
7 other way become obligated on a loan to an association.

8 (7) 'Branch office' means an office of an association other  
9 than its principal office which renders savings and loan  
10 services.

11 (8) 'Capital stock' means securities which represent ownership  
12 of a stock association.

13 (9) 'Certificate of approval' means a document signed by the  
14 administrator informing the North Carolina Secretary of State  
15 that the Commission has approved the certificate of incorporation  
16 of a proposed association.

17 (10) 'Certificate of authority to enter' means the document  
18 issued by the administrator to permit a foreign association to  
19 conduct business in this State.

20 (11) 'Certificate of incorporation or charter' means the  
21 document which represents the corporate existence of a State  
22 association.

23 (12) 'Certified copy' means a copy of an original document or  
24 paper which has been signed by the person or persons who certify  
25 such document to be an exact copy of the original.

26 (13) 'This Chapter' means Chapter 54B of the North Carolina  
27 General Statutes.

28

1       (14)    'Commission' means the North Carolina Savings and Loan  
2 Commission of the Department of Commerce.

3       (15)    'Conflict of interest' means a matter before the board of  
4 directors in which one or more of the directors, officers or  
5 employees has a direct or indirect financial interest in its  
6 outcome.

7       (16)    'Conformed copies' means photocopies or carbon copies or  
8 other mechanical reproductions of an original document or paper.

9       (17)    'Court of competent jurisdiction' means a court in North  
10 Carolina which is qualified to hear the case at hand.

11       (18)    'Disinterested directors' means those directors who have  
12 absolutely no direct or indirect financial interest in the matter  
13 before them.

14       (19)    'Dividends on stock' means the earnings of an association  
15 paid out to holders of capital stock in a stock association.

16       (20)    'Dividends on withdrawable accounts' means the  
17 consideration paid by an association to a holder of a  
18 withdrawable account for the use of his money.

19       (21)    'Division' means the Savings and Loan Division of the  
20 North Carolina Department of Commerce.

21       (22)    'Entrance fee per withdrawable account' means the amount  
22 to be paid by each person, firm or corporation when he or it  
23 pledges to a proposed mutual association to deposit funds in a  
24 withdrawable account.

25       (23)    'Examination and investigation' means a supervisory  
26 inspection of an association or proposed association which may  
27 include inspection of every relevant piece of information  
28

1 including subsidiary or affiliated businesses.

2 (24) 'Federal association' means a corporation or association  
3 organized and operated under the provisions of federal law and  
4 regulation to conduct a savings and loan business.

5 (25) 'Financial institution' means a person, firm or  
6 corporation engaged in the business of receiving, soliciting or  
7 accepting money or its equivalent on deposit and/or lending money  
8 or its equivalent.

9 (26) 'Foreign association' means a corporation or association  
10 organized in another state to conduct a savings and loan business  
11 and is so like a State association that it may, after qualifying,  
12 be certified to conduct the savings and loan business in this  
13 State.

14 (27) 'General reserve account' means the account from which an  
15 association shall meet its losses.

16 (28) 'Guaranty association' means a mutual deposit guaranty  
17 association which is a corporation organized under this Chapter  
18 or its predecessor and operated under the provisions of Article  
19 12 of this Chapter.

20 (29) 'Immediate family' means one's spouse, father, mother,  
21 children, brothers, sisters, and grandchildren; and the father,  
22 mother, brothers, and sisters of one's spouse; and the spouse of  
23 one's child, brother or sister.

24 (30) 'Initial pledges for withdrawable accounts' means those  
25 pledges of funds by persons who promise to a proposed mutual  
26 association to deposit such amount if and when such proposed  
27 association becomes established.

28

1       (31)    'Insurance of withdrawable accounts' means insurance on  
2    an association's withdrawable accounts when the beneficiary is  
3    the holder of such insured account.

4       (32)    'Liquidity fund' means that portion of the assets of an  
5    association which is required to be held in readily marketable  
6    form.

7       (33)    'Members' means those persons who hold withdrawable  
8    accounts or are borrowers from a mutual association and are  
9    deemed the owners of the association.

10      (34)    'Minimum amount of consideration' means the amount of  
11    money a stock association shall be required to have received on  
12    the sale of its stock, before it shall commence business.

13      (35)    'Minimum amount on deposit in withdrawable accounts'  
14    means the amount of money which a mutual association must have on  
15    hand prior to its commencement of business.

16      (36)    'Mutual association' means all mutual savings and loan  
17    associations owned by members of the association, and organized  
18    under the provisions of this Chapter or its predecessor for the  
19    primary purpose of promoting thrift and home financing.

20      (37)    'Net withdrawal value of withdrawable accounts' means the  
21    aggregate of the withdrawal value of an association's  
22    withdrawable accounts less the amount of any pledged withdrawable  
23    account which serves as security for a loan.

24      (38)    'Net worth' means an association's total assets less  
25    total liabilities.

26      (39)    'Original incorporators' means the organizers of a State  
27    association responsible for the business of a proposed  
28

1 association from the filing of the application to the  
2 Commission's final decision on such application.

3 (40) 'Plan of conversion' means a detailed outline of the  
4 procedure of the conversion of an association from one to another  
5 regulatory authority or from one to another form of ownership.

6 (41) 'Principal office' means the office which houses the  
7 headquarters of an association.

8 (42) 'Proposed association' means an entity in organizational  
9 procedures prior to the Commission's final decision on its  
10 charter application.

11 (43) 'Registered agent' means the person named in the  
12 certificate of incorporation upon whom service of legal process  
13 shall be deemed binding upon the association.

14 (44) 'Rules and regulations' means those regulatory procedures  
15 and guidelines issued by the administrator and approved by the  
16 Commission.

17 (45) 'Service corporation' means a corporation operating under  
18 the provision of Article 8 of this Chapter which engages in  
19 activities determined by the administrator by rules and  
20 regulations to be incidental to the conduct of a savings and loan  
21 business as provided in this Chapter or activities which further  
22 or facilitate the corporate purposes of an association, or which  
23 furnishes services to an association or subsidiaries of an  
24 association, the voting stock of which is owned directly or  
25 indirectly by one or more associations.

26 (46) 'Specific reserve account' means an account held by an  
27 association as a loss reserve for coverage on specific loans and  
28



1 investments.

2 (47) 'This State' means the State of North Carolina.

3 (48) 'State association' means a corporation or association  
4 organized under this Chapter or its predecessor and operated  
5 under the provisions of this Chapter to conduct the savings and  
6 loan business; or a corporation organized under the provisions of  
7 the predecessors to this Chapter and operated under the  
8 provisions of this Chapter; or a corporation organized under the  
9 provisions of federal law and so converted as to be operated  
10 under the provisions of this Chapter.

11 (49) 'Stock association' means any corporation or company  
12 owned by holders of capital stock and organized under the  
13 provisions of this Chapter for the primary purpose of promoting  
14 thrift and home financing.

15 (50) 'Subscriptions' means the promise to purchase capital  
16 stock in a stock association and payment of a portion of the  
17 selling price.

18 (51) 'Total assets' means the aggregate amount of assets of  
19 any and every kind held by an association.

20 (52) 'Voluntary dissolution' means the dissolution and  
21 liquidation of an association initiated by its ownership.

22 (53) 'Withdrawable accounts' means accounts in which a  
23 customer or member places funds with an association which may be  
24 withdrawn by the account holder.

25 (54) 'Withdrawal application' means the request in writing by  
26 a withdrawable account holder to withdraw part or all of his  
27 balance.

28

"ARTICLE 2.

1 "Incorporation and Organization.

2 "§ 54B-5. Severability.--If any section or subsection of this  
3 Chapter, or the application thereof to any person is held  
4 invalid, the remaining sections or subsections of this Article,  
5 and the application of such section or subsection to any other  
6 person, shall not be invalidated or affected thereby.

7 "§ 54B-6. Hearings.--Any hearing required to be held by this  
8 Chapter shall be conducted in accordance with the applicable  
9 provisions of Article 3 of Chapter 150A of the General Statutes.

10 "§ 54B-7. Application of Chapter on business corporations.--  
11 All the provisions of law relating to private corporations, and  
12 particularly those enumerated in Chapter 55, of the General  
13 Statutes, entitled 'Business Corporation Act', which are not  
14 inconsistent with this Chapter, or with the proper business of  
15 savings and loan associations shall be applicable to all State  
16 associations.

17 "§ 54B-8. Scope and prohibitions.--(a) Nothing in this  
18 Chapter shall be construed to invalidate any charter that was  
19 valid prior to the enactment of this Chapter. All such  
20 associations shall continue operation in full force, but such  
21 associations shall be operated in accordance with the provisions  
22 of this Chapter.

23 (b) Foreign associations certified to operate in this State  
24 may do so only when in accordance with the provisions of Article  
25 11 of this Chapter.

26 (c) No person or group of persons, nor any corporation,  
27 company, or association except one incorporated and licensed in  
28

1 accordance with the provisions of this Chapter to operate a State  
2 association, shall operate as a State association. Unless so  
3 authorized as a State, federal or foreign association and  
4 actually engaged in transacting a savings and loan business, no  
5 person or group of persons, nor any corporation, company, or  
6 association domiciled and doing business in this State shall:

7 (1) use in its name the terms 'building and loan  
8 association' or 'building association', or 'savings  
9 and loan association' or words of similar import or  
10 connotation that lead the public reasonably to  
11 believe that the business so conducted is that of a  
12 savings and loan association; or

13 (2) use any sign, or circulate or use any letterhead,  
14 billhead, circular or paper whatsoever, or  
15 advertise or communicate in any manner that would  
16 lead the public reasonably to believe that it is  
17 conducting the business of a savings and loan  
18 association.

19 (d) Upon application by the administrator or by any savings  
20 and loan association, a court of competent jurisdiction may issue  
21 an injunction to restrain any person or entity from violating or  
22 from continuing to violate any of the foregoing provisions of  
23 subsection (c).

24 "§ 54B-9. Application to organize a savings and loan  
25 association.--(a) It shall be lawful for any 10 or more natural  
26 persons (hereinafter referred to as the 'incorporators'), who are  
27 domiciled in this State, to organize and establish a savings and  
28

1 loan association in order to promote thrift and home financing,  
2 subject to approval as hereinafter provided in this Chapter, The  
3 incorporators shall file with the administrator a preliminary  
4 application to organize a State association, in the form to be  
5 prescribed by the administrator, together with the proper  
6 nonrefundable application fee.

7 (b) The application to organize a State association shall be  
8 received by the administrator not less than 60 days prior to the  
9 scheduled consideration of the application by the Commission, and  
10 it shall contain:

11 (1) the original of the certificate of incorporation,  
12 which shall be signed by the original  
13 incorporators, or a majority of them, but not less  
14 than 10, and shall be properly acknowledged by a  
15 person duly authorized by this State to take proof  
16 or acknowledgement of deeds; and two conformed  
17 copies;

18 (2) the names and addresses of the incorporators; and  
19 the names and addresses of the initial members of  
20 the board of directors;

21 (3) statements of the anticipated receipts,  
22 expenditures, earnings and financial condition of  
23 the association for its first two years of  
24 operation, or such longer period as the  
25 administrator may require;

26 (4) a showing satisfactory to the Commission that:

27 a. the public convenience and advantage will be  
28

1 served by the establishment of the proposed  
2 association;

3 b. there is a reasonable demand and necessity in  
4 the community which will be served by the  
5 establishment of the proposed association;

6 c. the proposed association will have a reasonable  
7 probability of sustaining profitable and  
8 beneficial operations within a reasonable time  
9 in the community in which the proposed  
10 association intends to locate;

11 d. the proposed association, if established, will  
12 promote healthy and effective competition in  
13 the community in the delivery to the public of  
14 savings and loan services;

15 (5) the proposed bylaws;

16 (6) statements, exhibits, maps and other data which may  
17 be prescribed or requested by the administrator,  
18 which data shall be sufficiently detailed and  
19 comprehensive so as to enable the administrator to  
20 pass upon the criteria set forth in this Chapter.

21 (c) The application shall be signed by the original  
22 incorporators or a majority of them but not less than 10, and  
23 shall be properly acknowledged by a person duly authorized by  
24 this State to take proof and acknowledgement of deeds.

25 "§ 54B-10. Certificate of incorporation.--(a) The certificate  
26 of incorporation of a proposed mutual savings and loan  
27 association shall set forth:

28

- 1           (1)    the name of the association, which must not so  
2                   closely resemble the name of an existing  
3                   association doing business under the laws of this  
4                   State as to be likely to mislead the public;
- 5           (2)    the county and city or town where its principal  
6                   office is to be located in this State; and the name  
7                   of its registered agent and the address of its  
8                   registered office, including county and city or  
9                   town, and street and number;
- 10          (3)    the period of duration, which may be perpetual.  
11                   When the certificate of incorporation fails to  
12                   state the period of duration, it shall be  
13                   considered perpetual;
- 14          (4)    the purposes for which the association is  
15                   organized, which shall be limited to purposes  
16                   permitted under the laws of this State for savings  
17                   and loan associations;
- 18          (5)    the amount of the entrance fee per withdrawable  
19                   account based upon the amount pledged;
- 20          (6)    the minimum amount on deposit in withdrawable  
21                   accounts before it shall commence business;
- 22          (7)    any provision not inconsistent with this Chapter  
23                   and the proper operation of a savings and loan  
24                   association, which the incorporators shall set  
25                   forth in the certificate of incorporation for the  
26                   regulation of the internal affairs of the  
27                   association;
- 28

1           (8)    the number of directors, which shall not be less  
2                    than seven, constituting the initial board of  
3                    directors (which may be classified in accordance  
4                    with the provisions of G.S. 55-26), and the name  
5                    and addresses of each person who is to serve as a  
6                    director until the first meeting of members, or  
7                    until his successor be elected and qualified;

8           (9)    the names and addresses of the incorporators.

9           (b)    The certificate of incorporation of a proposed stock  
10           savings and loan association shall set forth:

11           (1)   the name of the association, which must not so  
12                   closely resemble the name of an existing  
13                   association doing business under the laws of this  
14                   State as to be likely to mislead the public;

15           (2)   the county and city or town where its principal  
16                   office is to be located in this State; and the name  
17                   of its registered agent and the address of its  
18                   registered office, including county and city or  
19                   town, and street and number;

20           (3)   the period of duration, which may be perpetual.  
21                   When the certificate of incorporation fails to  
22                   state the period of duration, it shall be  
23                   considered perpetual;

24           (4)   the purposes for which the association is  
25                   organized, which shall be limited to purposes  
26                   permitted under the laws of this State for savings  
27                   and loan associations;

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(5) with respect to the shares of stock which the association shall have authority to issue:

a. if the stock is to have a par value, the number of such shares of stock and the par value of each;

b. if the stock is to be without par value, the number of such shares of stock;

c. if the stock is to be of both kinds mentioned in paragraphs a. and b. of subdivision 5 of this subsection, particulars in accordance with those paragraphs;

d. if the stock is to be divided into classes, or into series within a class of preferred or special shares of stock, the certificate of incorporation shall also set forth a designation of each class, with a designation of each series within a class, and a statement of the preferences, limitations, and relative rights of the stock of each class or series;

(6) the minimum amount of consideration to be received for its shares of stock before it shall commence business;

(7) a statement as to whether stockholders have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights;

(8) any provision not inconsistent with this Chapter or



1 the proper operation of a savings and loan  
2 association, which the incorporators shall set  
3 forth in the certificate of incorporation for the  
4 regulation of the internal affairs of the  
5 association;

6 (9) the number of directors, which shall not be less  
7 than seven, constituting the initial board of  
8 directors (which may be classified in accordance  
9 with the provisions of G.S. 55-26) and the name and  
10 address of each person who is to serve as a  
11 director until the first meeting of the  
12 stockholders, or until his successor be elected and  
13 qualified;

14 (10) the names and addresses of the incorporators.

15 (c) The certificate of incorporation, whether for a mutual  
16 association or stock association, shall be signed by the original  
17 incorporators, or a majority of them, but not less than 10, and  
18 shall be acknowledged before an officer duly authorized under the  
19 law of this State to take proof or acknowledgement of deeds, and  
20 shall be filed along with two conformed copies in the office of  
21 the administrator as provided in G.S. 54B-8.

22 "§ 54B-11. Administrator to consider application.--(a) Upon  
23 receipt of an application the administrator shall examine or  
24 cause to be examined all the relevant facts connected with the  
25 formation of the proposed association. If it appears to the  
26 administrator that the proposed association has complied with all  
27 the requirements set forth in this Chapter for the formation of a  
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1 State association, and with all the requirements set forth in the  
2 regulations for the formation of a State association and that the  
3 association is otherwise lawfully entitled to form a State  
4 association, the administrator shall present the application to  
5 the Commission.

6 (b) If the administrator determines that an application is not  
7 in procedural compliance with this Chapter, or if any part of the  
8 application contains incorrect or insufficient information so  
9 that the administrator cannot make a recommendation on the  
10 application, he shall notify the incorporators. He shall include  
11 suggestions as to amendments to the application so that it may  
12 conform.

13 (c) If the administrator determines that an application is in  
14 procedural compliance with the this Chapter, but for some  
15 substantive reason the administrator believes that the  
16 application should not be approved, the administrator shall  
17 recommend to the Commission at a public hearing conducted  
18 pursuant to G.S. 54B-13 that it deny the application.

19 "§ 54B-12. Criteria to be met before the administrator may  
20 recommend approval of an application.--(a) The administrator may  
21 recommend approval of an application to form a mutual association  
22 only when all of the following criteria are met:

- 23 (1) The proposed association has an operational expense  
24 fund, from which to pay organizational and  
25 incorporation expenses, in an amount determined by  
26 the administrator to be sufficient for the safe and  
27 proper operation of the association, but in no  
28

1 event less than seventy-five thousand dollars  
2 (\$75,000). The moneys remaining in such expense  
3 fund shall be held by the association for at least  
4 one year from its date of licensing. No portion of  
5 such fund shall be released to an incorporator or  
6 director who contributed to it, nor to any other  
7 contributor, nor to any other person and no  
8 dividends shall be accrued or paid on such funds  
9 without the prior approval of the administrator.

10 (2) The proposed association has pledges for  
11 withdrawable accounts in an amount determined by  
12 the administrator to be sufficient for the safe and  
13 proper operation of the association, but in no  
14 event less than three hundred fifty thousand  
15 dollars (\$350,000).

16 (3) All entrance fees for withdrawable accounts of the  
17 proposed association have been made with legal  
18 tender of the United States.

19 (4) All initial pledges for withdrawable accounts of  
20 the proposed association are made by residents of  
21 North Carolina.

22 (5) The name of the proposed association will not  
23 mislead the public and is not the same as an  
24 existing association or so similar to the name of  
25 an existing association as to mislead the public.

26 (6) The character, general fitness and responsibility  
27 of the incorporators and the initial board of  
28

1 directors of the proposed association who shall be  
2 residents of North Carolina are such as to command  
3 the confidence of the community in which the  
4 proposed association intends to locate.

5 (7) There is a reasonable demand and necessity in the  
6 community which will be served by the establishment  
7 of the proposed association.

8 (8) The public convenience and advantage will be served  
9 by the establishment of the proposed association.

10 (9) The proposed association will have a reasonable  
11 probability of sustaining profitable and beneficial  
12 operations in the community.

13 (10) The proposed association, if established, will  
14 promote healthy and effective competition in the  
15 community in the delivery to the public of savings  
16 and loan services.

17 (b) The administrator may recommend approval of an application  
18 to form a stock association only when all of the following  
19 criteria are met:

20 (1) The proposed association has subscriptions for  
21 capital stock in an amount determined by the  
22 administrator to be sufficient for the safe and  
23 proper operation of the association, but in no  
24 event less than one million dollars (\$1,000,000).

25 (2) The proposed association has certified that it  
26 shall set aside as a permanent capital reserve an  
27 amount of funds determined by the administrator to  
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- 1                   be sufficient for the safe and proper operation of  
2                   the association, but in no event less than five  
3                   hundred thousand dollars (\$500,000).
- 4                   (3) All subscriptions for capital stock of the proposed  
5                   association have been purchased with legal tender  
6                   of the United States.
- 7                   (4) All owners of subscriptions for capital stock of  
8                   the proposed association are natural persons and  
9                   residents of this State.
- 10                  (5) The proposed association has certified that it will  
11                  neither sell nor permit the transfer to any  
12                  corporate person or to any person not a resident of  
13                  this State any stock in the proposed association  
14                  from the time of application until 180 days  
15                  following the opening for business by such  
16                  association.
- 17                  (6) No person, either alone or in combination with  
18                  members of his immediate family, owns subscriptions  
19                  for more than ten percent (10%) of the stock in the  
20                  proposed association.
- 21                  (7) No financial institution owns subscriptions for  
22                  stock in the association. Notwithstanding any  
23                  other provision of this Chapter, stock ownership in  
24                  a stock savings and loan association shall not be  
25                  held by any other financial institution, except in  
26                  the following situations:
- 27                  a. a financial institution holding stock of a  
28

1 stock savings and loan association in a  
2 fiduciary or trust capacity, provided that,  
3 the financial institution shall whenever  
4 possible assign the voting rights in the stock  
5 to a disinterested person; provided further  
6 that, in no event may the financial  
7 institution exercise the voting rights in more  
8 than five percent (5%) of the outstanding  
9 stock in a stock savings and loan association;

10 b. a financial institution holding stock of a  
11 stock savings and loan association for a  
12 reasonable time for the sole purpose of sale  
13 to the general public, provided that, the  
14 financial institution shall not vote the  
15 stock;

16 c. a financial institution holding for a  
17 reasonable time, in its name or the name of  
18 its nominee, stock of a stock savings and loan  
19 association for the sole purpose of sale,  
20 where the stock was acquired through  
21 foreclosure or a convenience in lieu of  
22 foreclosure on a loan for which the stock  
23 served as collateral, provided that, the  
24 financial institution shall not vote the  
25 stock;

26 d. a financial institution holding stock of a  
27 stock savings and loan association as  
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1                   collateral for a loan, provided that, that  
2                   stock is not registered in the name of the  
3                   financial institution or in the name of a  
4                   nominee of the financial institution, provided  
5                   further that, the financial institution shall  
6                   not vote the stock; or

7                   e. for purposes of merger as provided in G.S.  
8                   54B-38.

9                   (8) The name of the proposed association will not  
10                   mislead the public and is not the same as an  
11                   existing association or so similar to the name of  
12                   an existing association as to mislead the public;  
13                   and contains the wording 'corporation',  
14                   'incorporated', 'limited', or 'company', an  
15                   abbreviation of one of such words or other words  
16                   sufficient to distinguish stock associations from  
17                   mutual associations.

18                   (9) The character, general fitness, and responsibility  
19                   of the incorporators, initial board of directors  
20                   and initial stockholders of the proposed  
21                   association who shall be residents of North  
22                   Carolina are such as to command the confidence of  
23                   the community in which the proposed association  
24                   intends to locate.

25                   (10) There is a reasonable demand and necessity in the  
26                   community which will be served by the establishment  
27                   of the proposed association.  
28

(11) The public convenience and advantage will be served by the establishment of the proposed association.

(12) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.

(13) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

"§ 54B-13. Savings and Loan Commission to review findings and recommendations of administrator.--(a) If the administrator does not have the completed application within 120 days of the filing of the preliminary application, the application shall be returned to the applicants.

(b) When the administrator has completed his examination and investigation of the facts relevant to the establishment of the proposed association, he shall present his findings and recommendations to the Commission at a public hearing. The Savings and Loan Commission must approve or reject an application within 180 days of the submission of the preliminary application.

(c) Not less than 90 days prior to the public hearing held for the consideration of the application to establish a savings and loan association, the incorporators shall cause to be published a notice in a newspaper of general circulation in the area to be served by the proposed association. Such notice shall contain:

(1) a statement that the application has been filed with the administrator;



1           (2)    the name of the community where the principal  
2                   office of the proposed association intends to  
3                   locate;

4           (3)    a statement that a public hearing shall be held to  
5                   consider the application; and

6           (4)    a statement that any interested or affected party  
7                   may file a written statement either favoring or  
8                   protesting the creation of the proposed  
9                   association. Such statement must be filed with the  
10                  administrator within 30 days of the date of  
11                  publication.

12       (d)    The Commission, at the public hearing, shall consider the  
13   findings and recommendation of the administrator and shall hear  
14   such oral testimony as he may wish to give or be called upon to  
15   give, and shall also receive information and hear testimony from  
16   the incorporators of the proposed association and from any and  
17   all other interested or affected parties. The Commission shall  
18   hear only testimony and receive only information which is  
19   relevant to the consideration of the application and the  
20   operation of the proposed association.

21       "§ 54B-14. Grounds for approval or denial of application.--(a)  
22   After consideration of the findings and recommendation of the  
23   administrator and his oral testimony, if any, and the  
24   consideration of such other information and evidence, either  
25   written or oral, as has come before it at the public hearing.  
26   The Commission shall approve or disapprove the application within  
27   30 days. The Commission shall approve the application if it  
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1 finds that:

2 (1) the certificate of incorporation is in compliance  
3 with the provisions of G.S. 54B-10, that all the  
4 criteria set out in G.S. 54B-12 have been complied  
5 with, and that all other applicable provisions of  
6 this Chapter and the General Statutes have been  
7 complied with;

8 (2) the character, general fitness, responsibility and  
9 experience of the incorporators and the initial  
10 board of directors are such as to command the  
11 confidence of, and to warrant the belief by the  
12 community in which the association intends to  
13 locate, that the business of the proposed  
14 association will be honestly and efficiently  
15 conducted in accordance with the intent and purpose  
16 of this Chapter.

17 (b) If the Commission approves the application, the  
18 administrator shall so notify the Secretary of State with a  
19 certificate of approval, accompanied by the original of the  
20 certificate of incorporation and the two conformed copies.

21 (c) Upon receipt of the certificate of approval, the original  
22 of the certificate of incorporation, and the two conformed  
23 copies, the Secretary of State shall examine the certificate of  
24 incorporation to determine whether it is in compliance with the  
25 provisions of G.S. 54B-10 of this Chapter, and with the  
26 provisions of any other applicable General Statutes. If it is in  
27 compliance, the Secretary of State shall, upon the payment by the  
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1 newly chartered association of the appropriate organization tax  
2 and fees, file the certificate of incorporation in accordance  
3 with G.S. 55-4, except that he shall certify under his official  
4 seal the two conformed copies of the certificate of  
5 incorporation, one of which shall forthwith be forwarded to the  
6 incorporators or their representative, for the purpose of  
7 recordation in the office of the register of deeds of the county  
8 where the principal office of the association shall be located,  
9 in accordance with G.S. 55-4(a) (6), the other of which shall be  
10 forwarded to the office of the administrator for filing. Upon  
11 the recordation of the certificate of incorporation by the  
12 Secretary of State, the association shall be a body politic and  
13 corporate under the name stated in such certificate, and shall be  
14 authorized to begin the savings and loan business when duly  
15 licensed by the administrator.

16 (d) The said certificate of incorporation, or a copy thereof,  
17 duly certified by the Secretary of State, or by the register of  
18 deeds of the county where the association is located, or by the  
19 administrator, under their respective seals, shall be evidence in  
20 all courts and places, and shall, in all judicial proceedings, be  
21 deemed prima facie evidence of the complete organization and  
22 incorporation of the association purporting thereby to have been  
23 established.

24 "§ 54B-15. Final decision.--The Commission shall present the  
25 administrator with a final decision which sets out the facts  
26 which form the basis for the decision. The administrator shall  
27 forward a conformed copy of the decision by certified mail to the  
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1 incorporators or their representative. Such final decision of  
2 the Commission shall conform to the provisions of Section 36 of  
3 Chapter 150A of the General Statutes.

4 "§ 54B-16. Appeal.--Any party to a charter or branch  
5 application may appeal the final decision of the Commission to  
6 the Superior Court of Wake County, provided written notice of  
7 appeal is given to the administrator within 30 days after a  
8 written copy of the decision is served upon the party seeking the  
9 review by personal service or by registered mail. In addition,  
10 the provisions of Article 4 of Chapter 150A of the General  
11 Statutes, relating to judicial review, shall be applicable.

12 "§ 54B-17. Insurance of accounts required.--All State  
13 associations must obtain and maintain insurance on all members'  
14 and customers' withdrawable accounts. Contracts for such  
15 insurance may be made with any mutual deposit guaranty  
16 association organized under Article 12 of this Chapter, or its  
17 predecessor, or from the Federal Savings and Loan Insurance  
18 Corporation. Prior to the licensing of an association, a  
19 certificate of incorporation duly recorded under the provisions  
20 of G.S. 54B-14(c), shall be deemed to be sufficient certification  
21 to the insuring corporation that the association is a legal  
22 corporate entity. Such insurance must be obtained within the  
23 time limit prescribed in G.S. 54B-18.

24 "§ 54B-18. Time allowed to commence business.--A newly  
25 chartered association shall commence business within six months  
26 after the date upon which its corporate existence shall have  
27 begun. An association which shall not commence business within  
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1 such time, shall forfeit its corporate existence, unless the  
2 administrator, before the expiration of such six-month period,  
3 shall have approved an extension of the time within which the  
4 association may commence business, upon a written request stating  
5 the reasons for which such request is made. Upon such  
6 forfeiture, the certificate of incorporation shall expire, and  
7 any and all action taken in connection with the incorporation and  
8 chartering of the association, with the exception of fees paid to  
9 the Division, shall become null and void.

10 "§ 54B-19. Licensing.--A newly chartered association shall be  
11 entitled to a license to operate upon payment to the Division of  
12 the appropriate license fee as prescribed by the administrator,  
13 when it shows to the satisfaction of the administrator evidence  
14 of capable, efficient and equitable management, and when it  
15 passes a final inspection by the administrator or his  
16 representatives preceding the opening of its doors for business.

17 "§ 54B-20. Amendments to certificate of incorporation.--(a)  
18 Any addition, alteration or amendment to the certificate of  
19 incorporation of any State association shall be made at any  
20 annual or special meeting of such association, held in accordance  
21 with the provisions of G.S. 54B-106 and G.S. 54B-107 by a  
22 majority of the total votes which members of a mutual association  
23 are eligible and entitled to cast, or by a majority of the total  
24 votes which stockholders of a stock association are eligible and  
25 entitled to cast, present in person or represented by proxy at  
26 any such meeting. Any such addition, alteration or amendment  
27 shall be signed, submitted to the administrator for his approval  
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1 or rejection, and if approved, then certified and recorded as  
2 provided for in G.S. 54B-9 and G.S. 54B-10 for certificates of  
3 incorporation.

4 "§ 54B-21. List of stockholders to be maintained.--Every stock  
5 association organized and operated under the provisions of this  
6 Chapter or its predecessor shall at all times cause to be kept an  
7 up-to-date list of the names of all its stockholders. Annually,  
8 in January or whenever called upon by the administrator, file in  
9 the office of the administrator a correct list of all its  
10 stockholders, the resident address of each, the number of shares  
11 of stock held by each, and the dates of issue.

12 "§ 54B-22. Branch offices.--(a) Any State association may  
13 apply to the administrator for permission to establish a branch  
14 office at any time. The application shall be in such form as the  
15 administrator may prescribe by regulation. Branch applications  
16 shall be approved or rejected by the Commission within 120 days  
17 of submission to the administrator.

18 (b) The administrator may recommend approval of an application  
19 to establish a branch office only when all of the following  
20 criteria are met:

- 21 (1) applicant association has gross assets of at least  
22 ten million dollars (\$10,000,000);
- 23 (2) applicant association is financially responsible,  
24 its principal office and any existing branches are  
25 soundly managed, and it has no record of any  
26 uncorrected serious supervisory difficulties;
- 27 (3) applicant association has a net worth equal to five  
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1                   percent (5%) of the net withdrawal value of such  
2                   association's withdrawable account;

3                   (4)   applicant association has an acceptable internal  
4                   control system. Such a system would include  
5                   certain basic requirements essential to the  
6                   protection of assets and the promotion of  
7                   operational efficiency. Some of the factors which  
8                   require such extensive internal control  
9                   requirements as the use of a controller or internal  
10                  auditor and more distinctive placement  
11                  responsibilities include an association's size,  
12                  number of personnel and history of and anticipated  
13                  plans for expansion;

14                  (5)   the public convenience and advantage will be served  
15                  by the establishment of the proposed branch office;

16                  (6)   the proposed branch office will promote healthy and  
17                  effective competition in the community in the  
18                  delivery to the public of savings and loan  
19                  services.

20           (c)   Upon receipt of a branch application, the administrator  
21   shall examine or cause to be examined all the relevant facts  
22   connected with the establishment of the proposed branch office.  
23   If it appears to the satisfaction of the administrator that the  
24   association has complied with all the requirements set forth in  
25   this Chapter for the establishment of a branch office and with  
26   all the requirements set forth in the regulations for the  
27   establishment of a branch office, and that the association is  
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1 otherwise lawfully entitled to establish such branch office, then  
2 the administrator shall present the branch application to the  
3 Commission.

4 (d) If the administrator determines that a branch application  
5 is not in procedural compliance with this Chapter, or if any part  
6 of the application contains incorrect or insufficient information  
7 so that the administrator cannot make a recommendation on the  
8 application, he shall notify the applicants. He shall include  
9 the reasons and suggestions as to amendments to the application  
10 in order that it may conform.

11 (e) If the administrator determines that a branch application  
12 is in procedural compliance with the applicable provisions of  
13 this Chapter and the rules and regulations, but for some  
14 substantive reason the administrator believes that the  
15 application should not be approved, then the administrator shall  
16 recommend to the Commission in a public hearing that it deny the  
17 branch application.

18 (f) A fee shall be charged to the association applying to  
19 establish a branch office, and shall be paid according to the  
20 schedule fixed in the rules and regulations.

21 (g) When the administrator has completed his examination and  
22 investigation of the facts relevant to the establishment of the  
23 proposed branch office, he shall present his findings and  
24 recommendations to the Commission at a public hearing.

25 (h) Not less than 60 days prior to the public hearing held for  
26 the consideration of the application to establish a branch  
27 office, the applicant association's board of directors shall  
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1 cause to be published a notice in a newspaper of general  
2 circulation in the area to be served by the proposed branch  
3 office. Such notice shall contain:

- 4 (1) a statement that the application has been filed  
5 with the administrator;
- 6 (2) the name of the community and street address where  
7 the proposed branch office intends to locate;
- 8 (3) a statement that a public hearing shall be held to  
9 consider the application; and
- 10 (4) a statement that any interested or affected party  
11 may file a written statement either favoring or  
12 protesting the creation of the proposed branch  
13 office. Such statement must be filed with the  
14 administrator within 30 days of the date of the  
15 publication.

16 (i) The Commission, at the public hearing, shall consider the  
17 findings and recommendation of the administrator and shall hear  
18 such oral testimony as he may wish to give or be called upon to  
19 give, and shall also receive information and hear testimony from  
20 the applicant association's board of directors and from any and  
21 all other interested or affected parties. The Commission shall  
22 hear only testimony and receive only information which is  
23 relevant to the consideration of the application and the  
24 operation of the proposed branch office.

25 (j) The Commission shall either approve or disapprove the  
26 application within 30 days following the hearing. The  
27 administrator shall notify the applicant association of the  
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1 decision of the Commission. If the Commission approves the  
2 application, the branch office may open its doors for business  
3 only after it passes a final inspection by the administrator or  
4 his representative.

5 (k) The provisions of G.S. 54B-15 and G.S. 54B-16, relating to  
6 the final decision and appeals process with respect to  
7 applications for new charters shall be applicable to the  
8 application to establish a branch office.

9 "§ 54B-23. Application to change location of a branch or  
10 principal office.--(a) The board of directors of a State  
11 association may change the location of a branch office or the  
12 principal office of the association by submitting to the  
13 administrator an application for such change on forms prescribed  
14 by the administrator.

15 (b) Upon receipt of an application accompanied by the proper  
16 application fee, the administrator shall conduct, or cause to be  
17 conducted, an examination and investigation of the facts and  
18 circumstances connected with the consideration of the  
19 application. After such examination and investigation, the  
20 administrator shall make a recommendation to the Commission on  
21 the application at a properly publicized hearing at which other  
22 concerned parties may present their views.

23 (c) If an application filed under this section is approved by  
24 the Commission and the association fails to change the location  
25 of such branch office or principal office within six months after  
26 the date of the order approving such application, such approval  
27 shall be revoked. Such a six-month period may be extended upon a  
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1 showing to the satisfaction of the administrator of good cause.

2 "§ 54B-24. Approval revoked; branch office.--The Commission  
3 may, for good cause and after a hearing, order the closing of a  
4 branch office. Such order shall be made in writing to the  
5 association and shall fix a reasonable time after which the  
6 association shall close the branch office.

7 "§ 54B-25. Branch office closed.--The board of a State  
8 association may discontinue the operation of a branch office upon  
9 60 days prior written notice to the administrator. The  
10 association shall notify the administrator in writing of the date  
11 upon which the branch office shall be closed.

12 "§ 54B-26 to 54B-29. Reserved for future codification  
13 purposes.

14 "ARTICLE 3.

15 "Fundamental Changes.

16 "§ 54B-30. Conversion from State to federal association.--Any  
17 State savings and loan association, stock or mutual, organized  
18 and operated under the provisions of this Chapter, may convert  
19 into a federal savings and loan association in accordance with  
20 the provisions of the laws and regulations of the United States  
21 and with the same force and effect as though originally  
22 incorporated under such laws, and the procedure to effect such  
23 conversion shall be as follows:

24 (1) The association shall submit a plan of conversion to the  
25 administrator, and he may approve the same, with or without  
26 amendment, or refuse to approve the plan. If he approves the  
27 plan, then the plan shall be submitted to the members or

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1 stockholders as provided in the next subdivision. If he refuses  
2 to approve the plan, he shall state his objections in writing and  
3 give the converting association an opportunity to amend the plan  
4 to obviate such objections or to appeal his decision to the  
5 Commission.

6 (2) A meeting of the members or stockholders shall be held  
7 upon not less than 30 days' written notice to each member or  
8 stockholder, served personally or mailed to the last known  
9 address of such member or stockholder, postage prepaid. The  
10 notice shall contain a statement of the time, place and purpose  
11 for which such meeting is called. It shall be regarded as  
12 sufficient notice of the purpose of the meeting if the notice  
13 contains the following statement: 'The purpose of this meeting  
14 is to consider the conversion of this State chartered association  
15 into a federally chartered association, pursuant to the laws of  
16 the United States. An appropriate officer of the the association  
17 shall make proof by affidavit at such meeting of due service of  
18 the notice or call for said meeting.

19 (3) At the meeting of the members or stockholders of such  
20 association, such members or stockholders may, by affirmative  
21 vote of a majority of shares or votes eligible to be cast by  
22 members or stockholders, in person or by proxy, resolve to  
23 convert said association to a federal savings and loan  
24 association. A copy of the minutes of the meeting of the members  
25 or stockholders certified by an appropriate officer of the  
26 association shall be filed in the office of the administrator  
27 within 10 days after such meeting. The said certified copy when  
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1 so filed shall be prima facie evidence of the holding and the  
2 action of the meeting.

3 (4) Within a reasonable time after the receipt of a certified  
4 copy of the minutes, the administrator shall either approve or  
5 disapprove the proceedings of the meeting. If the administrator  
6 approves the proceedings he shall endorse the certified copy of  
7 the minutes, and shall issue a certificate of his approval of the  
8 conversion and proceedings and send the same to the association.  
9 Such certificate shall be recorded in the office of the Secretary  
10 of State and in the office of the register of deeds of the county  
11 in which the association has its principal office, and the  
12 original shall be held by the association. If the administrator  
13 disapproves the proceedings he shall note his disapproval on the  
14 certified copy of the minutes and notify the Commission and the  
15 association of his disapproval. The association may appeal a  
16 disapproval to the Commission.

17 (5) Within 60 days after approval of the proceedings by the  
18 administrator, the association shall file an application, in the  
19 manner prescribed or authorized by the laws and regulations of  
20 the United States, to consummate the conversion to a federal  
21 association. A copy of the charter or authorization issued to  
22 such association by the Federal Home Loan Bank Board, or a  
23 certificate showing the organization or conversion of such  
24 association into a federal savings and loan association, and upon  
25 such filing with the administrator the association shall cease to  
26 be a State association and shall be a federal association.

27 (6) Whenever any such association shall convert into a federal  
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1 savings and loan association it shall cease to be an association  
2 under the laws of this State, except that its corporate existence  
3 shall be deemed to be extended for the purpose of prosecuting or  
4 defending suits by or against it and of enabling it to close its  
5 business affairs as a State association, and to dispose of and  
6 convey its property. At the time when such conversion becomes  
7 effective, all the property of the State association including  
8 all its rights, title and interest in and to all property of  
9 whatever kind, whether real, personal or mixed, and things in  
10 action, and every right, privilege, interest and asset of any  
11 conceivable value or benefit then existing, belonging or  
12 pertaining to it, or which would inure to it, shall immediately  
13 by act of law and without any conveyance or transfer, and without  
14 any further act or deed, be vested in and become the property of  
15 the federal association, which shall have, hold and enjoy the  
16 same in its own right as fully and to the same extent as the same  
17 was possessed, held and enjoyed by the State association; and the  
18 federal association as of the effective time of such conversion  
19 shall succeed to all the rights, obligations and relations of the  
20 State association.

21 "§ 54B-31. Conversion from federal to State association.--Any  
22 federal savings and loan association, stock or mutual, organized  
23 and existing under the laws and regulations of the United States  
24 and duly authorized to operate and actually operating in North  
25 Carolina may convert into a State savings and loan association  
26 operating under the provisions of this Chapter, with the same  
27 force and effect as though originally incorporated under the  
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1 provisions of this Chapter, by complying with the rules and  
2 regulations of the federal regulatory authority, and also by  
3 following the procedure as set forth in this section:

4 (1) The federal association shall submit a plan of conversion  
5 to the administrator. When such plan, either with or without  
6 amendment, has been approved by the administrator, it shall be  
7 submitted to the members or stockholders of the association as  
8 provided in the next subdivision.

9 (2) A meeting of the members or stockholders shall be held  
10 upon not less than 30 days' written notice to each member or  
11 stockholder, served personally or mailed to the last known  
12 address of such member or stockholder, postage prepaid. The  
13 notice shall contain a statement of the time, place and purpose  
14 for which such meeting is called. It shall be regarded as  
15 sufficient notice of the purpose of the meeting if the call  
16 contains the following statement: 'The purpose of this meeting  
17 is to consider the conversion of this federally chartered  
18 association to a State chartered savings and loan association,  
19 pursuant to the provisions of the laws of the State of North  
20 Carolina'. An appropriate officer of the association shall make  
21 proof by affidavit at such meeting of the due service of the  
22 notice or call for said meeting.

23 (3) At the meeting of the members or stockholders of the  
24 association, the members or stockholders may, by affirmative vote  
25 of a majority of those votes eligible to be cast by members or  
26 stockholders, in person or by proxy, resolve to convert the  
27 association to a State association. A copy of the minutes of the  
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1 meeting of the members or stockholders, certified by an  
2 appropriate officer of the association, shall be filed with the  
3 administrator within 10 days after the meeting, accompanied by a  
4 conversion fee. The certified copy when so filed shall be prima  
5 facie evidence of the holding of and the action taken at the  
6 meeting.

7 (4) Within 30 days after the approval of the proceedings by  
8 the administrator and the approval of the conversion by the  
9 federal authority, and by the insuring corporation, the  
10 association shall file with the administrator, the Secretary of  
11 State, and the register of deeds of the county where such  
12 association intends to operate a copy of the certificate of  
13 incorporation of such association, signed by at least seven  
14 directors. The certificate of incorporation shall conform to the  
15 provisions of the laws of this State. The Secretary of State and  
16 the register of deeds of the county where the association has its  
17 principal office shall not issue or record the certificate of  
18 incorporation until authorized to do so by the administrator.  
19 Upon receipt of a copy of the certificate of incorporation the  
20 administrator shall cause to be made a careful examination and  
21 investigation of the facts connected with the conversion of the  
22 association, including an examination of its affairs generally  
23 and a determination of its assets and liabilities. The  
24 reasonable cost and expenses of the examination and investigation  
25 shall be paid by the association. If it appears that the  
26 association, if converted, will lawfully be entitled to conduct  
27 business as a State association pursuant to the provisions of  
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1     this Chapter, the administrator shall so certify to the Secretary  
2     of State and the register of deeds in the county in which the  
3     association is located, who shall thereupon issue and record such  
4     certificate of incorporation. Upon issuance and recordation of  
5     the certificate of incorporation the association shall file with  
6     the appropriate federal regulatory authority a certified copy of  
7     same. Upon such filing, the association shall cease to be a  
8     federal association and shall be converted to a State  
9     association.

10     (5)     Upon conversion, all the property of the federal  
11     association, including all its rights, title and interest in and  
12     to all property of whatsoever kind whether real, personal or  
13     mixed, and things in action, and every right, privilege, interest  
14     and asset of any conceivable value or benefit then existing,  
15     belonging or pertaining to it, or which would inure to it, shall  
16     immediately by act of law and without any conveyance or transfer,  
17     and without any further act or deed, be vested in and become the  
18     property of the State association, which shall have, hold, and  
19     enjoy the same in its own right as fully and to the same extent  
20     as if the same was possessed, held or enjoyed by said federal  
21     association; and such State association shall be deemed to be a  
22     continuation of the entity and the identity of said federal  
23     association, operating under and pursuant to the provisions of  
24     this Chapter, and all rights, obligations and relations of said  
25     federal association to or in respect to any person, estate, or  
26     creditor, depositor, trustee or beneficiary of any trust, and to  
27     or in respect to any executorship or trusteeship or other trust  
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1 or fiduciary function, shall remain unimpaired, and the State  
2 association, shall by operation of this section succeed to all  
3 such rights, obligations, relations and trusts, and the duties  
4 and liabilities connected therewith, and shall execute and  
5 perform each and every such right, obligation, trust and relation  
6 in the same manner as if such State association had itself  
7 assumed the trust or relation, including the obligations and  
8 liabilities connected therewith.

9     "§ 54B-32. Simultaneous charter and ownership conversion.--(a)  
10 In the event of a State charter to federal charter conversion,  
11 when the form of ownership will also simultaneously be changed  
12 from stock to mutual, or from mutual to stock, the conversion  
13 shall proceed initially as if it involves only a charter  
14 conversion, under G.S. 54B-30. After the association becomes a  
15 federal association, then the federal regulatory authority shall  
16 govern the continuing conversion of the form of ownership of such  
17 newly converted association.

18     (b) In the event of a federal charter to State charter  
19 conversion, when the form of ownership will also simultaneously  
20 be changed from stock to mutual or from mutual to stock, the  
21 conversion shall proceed initially as if it involves only a  
22 charter conversion, under G.S. 54B-31. After the association  
23 becomes a State association, the provisions of G.S. 54B-33 or  
24 G.S. 54B-34 shall govern the continuing conversion of the form of  
25 ownership of such newly converted association.

26     "§ 54B-33. Conversion of mutual to stock association.--(a)  
27 Any mutual association may convert from mutual to the stock form  
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1 of ownership as provided in this section.

2 (b) A mutual association may apply to the administrator for  
3 permission to convert to a stock association and for  
4 certification of appropriate amendments to the association's  
5 certificate of incorporation. Upon receipt of an application to  
6 convert from mutual to stock form the administrator shall examine  
7 all facts connected with the requested conversion. The expenses  
8 and cost of such examination, monitoring and supervision shall be  
9 paid by the association applying for permission to convert.

10 (c) Upon completion of his examination the administrator shall  
11 report his findings to the Commission. After reviewing the  
12 findings of the administrator and conducting any further  
13 appropriate examinations and investigations the Commission may  
14 approve and permit the requested conversion if it appears that:

- 15 (1) after conversion the association will be in sound  
16 financial condition and will be soundly managed;
- 17 (2) the conversion will not impair the capital of the  
18 association nor adversely affect the association's  
19 operations;
- 20 (3) the conversion will be fair and equitable to the  
21 members of the association and no person whether  
22 member, employee or otherwise, will receive any  
23 inequitable gain or advantage by reason of the  
24 conversion;
- 25 (4) the savings and loan services provided to the  
26 public by the association will not be adversely  
27 affected by the conversion;

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1           (5) the conversion will be conducted as provided by law  
2           and pursuant to a plan approved by the  
3           administrator. The substance of the plan must be  
4           approved by a vote of two thirds of the board of  
5           directors of the association; and, after lawful  
6           notice to the members of the association and full  
7           and fair disclosure, the substance of the plan must  
8           be approved by a majority of the total votes which  
9           members of the association are eligible and  
10          entitled to cast. Such a vote by the members may  
11          be in person or by proxy;

12          (6) the plan of conversion provides:

- 13           a. all shares of stock issued in connection with  
14           the conversion are offered first to the  
15           members of the association;
- 16           b. all stock shall be offered to members of the  
17           association and others in prescribed amounts  
18           and otherwise pursuant to a formula and  
19           procedure which is fair and equitable and will  
20           be fairly disclosed to all interested persons;
- 21           c. members to whom stock will be offered and the  
22           amounts of stock which will be offered shall  
23           be determined as of a date or dates approved  
24           by the administrator;
- 25           d. a statement as to whether stockholders shall  
26           have preemptive rights to acquire additional  
27           or treasury shares of the association and any  
28

1 provision limiting or denying said rights;  
2 e. at the time of the conversion, the number of  
3 shares which any person may acquire together  
4 with any associate or group of persons acting  
5 in concert shall not exceed five percent (5%)  
6 of the total number of shares offered. For  
7 purposes of this paragraph, the members of the  
8 converting institution's board of directors  
9 shall not be deemed to be associates or a  
10 group acting in concert solely as a result of  
11 their board membership.

12 f. at the time of the conversion, the total amount  
13 of stock acquired by officers and directors  
14 shall not exceed twenty-five percent (25%) of  
15 the total number of shares issued in  
16 connection with the conversion;

17 g. the conversion shall not be complete until all  
18 stock offered in connection with the  
19 conversion has been subscribed.

20 (d) After approval of a requested conversion by the  
21 Commission, the administrator shall supervise and monitor the  
22 conversion process and he shall ensure that the conversion is  
23 conducted pursuant to law and the association's approved plan of  
24 conversion.

25 (e) Upon conversion of a mutual association to the stock form  
26 of ownership, the legal existence of the association shall not  
27 terminate but the converted stock association shall be a  
28

1 continuation of the mutual association. The conversion shall be  
2 deemed a mere change in identity or form of organization. All  
3 rights, liabilities, obligations, interest and relations of  
4 whatever kind of the mutual association shall continue and remain  
5 in the stock-owned association. All actions and legal  
6 proceedings to which the association was a party prior to  
7 conversion shall be unaffected by the conversion and proceed as  
8 if the conversion had not taken place.

9 (f) The administrator shall promulgate rules and regulations  
10 to govern conversions; provided, however, that such rules and  
11 regulations as may be promulgated by the administrator shall be  
12 equal to or exceed the requirements for conversion imposed by the  
13 rules and regulations governing conversions of federal chartered  
14 mutual savings and loan associations of the Federal Home Loan  
15 Bank Board as set forth in the Federal Register, Vol. 44, No. 62,  
16 Thursday, March 29, 1979, entitled 'Part 563b Conversion From  
17 Mutual to Stock Form' as these may be amended from time to time  
18 and other applicable rules and regulations effective as of the  
19 date of ratification. No provision of this section is to be  
20 interpreted to require Federal Savings and Loan Insurance  
21 Corporation (FSLIC) insurance of accounts as a prerequisite to  
22 conversion. All State associations are to continue to be allowed  
23 to choose between FSLIC and a mutual deposit guaranty  
24 association. Said rules and regulations shall implement the  
25 provisions of this section and provide procedures by which an  
26 association shall seek permission for a conversion and procedures  
27 for conducting conversions. Provided, however, the rules and  
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1 regulations promulgated under this section shall apply equally to  
2 all converting associations and no converting association shall  
3 enjoy a competitive advantage over another type of converting  
4 association by reason of the rules and regulations governing its  
5 conversion; provided further, however, no association shall be  
6 required by the administrator or by regulation to change the type  
7 of insurance it maintains on its withdrawable accounts by reason  
8 of this section.

9 "§ 54B-34. Conversion of stock associations to mutual  
10 associations.--Any stock savings and loan association organized  
11 and operating under the provisions of this Chapter may, subject  
12 to the approval of the Commission, convert to a mutual savings  
13 and loan association under the provisions of this section. The  
14 administrator may promulgate rules and regulations governing the  
15 conversion of stock associations to mutual associations. Such  
16 rules and regulations shall include, but shall not be limited to  
17 requirements that:

18 (1) the conversion neither impair the capital of the  
19 converting association nor adversely affect its operations;

20 (2) the conversion shall be fair and equitable to all  
21 stockholders of the converting associations;

22 (3) the public shall not be adversely affected by the  
23 conversion;

24 (4) conversion of an association shall be accomplished only  
25 pursuant to a plan approved by the administrator. Said plan must  
26 have been approved by an affirmative vote of two thirds of the  
27 members of the board of directors of the converting association,  
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1 and only after a full and fair disclosure to the stockholders, by  
2 an affirmative vote a majority of the total votes which  
3 stockholders of the association are eligible and entitled to  
4 cast;

5 (5) the plan of conversion provides that:

6 a. withdrawable accounts be issued in connection with  
7 the conversion to the stockholders of the  
8 converting association;

9 b. a uniform date be fixed for the determination of the  
10 stockholders to whom, and the amount to each  
11 stockholder of which, withdrawable accounts shall  
12 be made available;

13 c. withdrawable accounts so made available to  
14 stockholders be based upon a fair and equitable  
15 formula approved by the administrator and fully and  
16 fairly disclosed to the stockholders of the  
17 converting association.

18 "§ 54B-35. Merger of like savings and loan associations.--Any  
19 two or more State mutual associations or any two or more State  
20 stock associations organized or operating, may merge or  
21 consolidate into a single association which may be either one of  
22 said merging associations, and the procedure to effect such  
23 merger shall be as follows:

24 (1) The directors, or a majority of them, of such associations  
25 as desire to merge, may, at separate meetings, enter into a  
26 written agreement of merger signed by them and under the  
27 corporate seals of the respective associations, specifying each  
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1 association to be merged and the association which is to receive  
2 into itself the merging association or associations, and  
3 prescribing the terms and conditions of the merger and the mode  
4 of carrying it into effect. Such merger agreement may provide  
5 the manner and basis of converting or exchanging the withdrawable  
6 accounts in the mutual association or associations so merged for  
7 withdrawable accounts of the same or a different class of the  
8 receiving association, or of converting or exchanging the stock  
9 in the stock association or associations so merged for stock of  
10 the same or a different class of the receiving association. The  
11 merger agreement may provide for such other provisions with  
12 respect to the merger as appear necessary or desirable, or as the  
13 administrator may require by regulation to enable him to  
14 discharge his duties with respect to such merger.

15 (2) Such merger agreement together with copies of the minutes  
16 of the meetings of the respective boards of directors verified by  
17 the secretaries of the respective associations shall be submitted  
18 to the administrator, who shall cause a careful investigation and  
19 examination to be made of the affairs of the associations  
20 proposing to merge, including a determination of their respective  
21 assets and liabilities. The reasonable cost and expenses of such  
22 examination shall be defrayed by each association so investigated  
23 and examined. If, as a result of such investigation, he shall  
24 conclude that the members or stockholders of each of the  
25 associations proposing to merge will be benefitted thereby, he  
26 shall, in writing, approve same. If he deems that the proposed  
27 merger will not be in the interest of all members or stockholders  
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1 of the associations so merging, he shall, in writing, disapprove  
2 the same. If he approves the merger agreement, then same shall  
3 be submitted, within 30 days after notice to such associations of  
4 such approval, to the members or stockholders of each of such  
5 association, as provided in the next subdivision. Such  
6 disapproval may be appealed by the association to the Commission.

7 (3) A special meeting of the members or stockholders of each  
8 of said associations shall be held separately upon written notice  
9 to each member or stockholder of not less than 30 days,  
10 specifying the time, place, and purpose for which such meeting is  
11 called and such notice shall be served personally or sent by  
12 mail, postage prepaid, to each member or stockholder at the last  
13 known address of such member or stockholder appearing upon the  
14 books of the association. Due notice may also be given of the  
15 time, place and object of such meeting by publication at least  
16 once a week for four successive weeks in one or more newspapers  
17 published in the county or counties wherein each such association  
18 has its principal or a branch office (and if there is no  
19 newspaper published in the county then in a newspaper published  
20 in an adjoining county). The secretary or other officer of the  
21 association shall make proof by affidavit at such meeting of the  
22 due service of the notice or call for said meeting.

23 (4) At separate meetings of the members or stockholders  
24 representing a majority of the outstanding withdrawable accounts  
25 or shares of stock entitled to vote, by affirmative vote of at  
26 least two thirds of the members or shares present, in person or  
27 by proxy, may declare by resolution the determination to merge  
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1 into a single association upon terms of the merger as shall have  
2 been agreed upon by the directors of the respective associations  
3 and as approved by the administrator. Upon the adoption of the  
4 resolution, a copy of the minutes of the proceedings of the  
5 meetings of the members or stockholders of the respective  
6 associations, certified by the president or vice-president and  
7 secretary or assistant secretary of the merging associations,  
8 shall be filed in the office of the administrator, within 10 days  
9 after such meetings. Within 15 days after the receipt of a  
10 certified copy of the minutes of said meetings the administrator  
11 shall either approve or disapprove the proceedings and action  
12 taken. If the proceedings are approved by him he shall so  
13 endorse the certified copy of the minutes in his office, and  
14 shall issue a certificate of his approval of the merger and send  
15 same to each of the associations. The certificate shall be filed  
16 and recorded in the office of the Secretary of State and in the  
17 office of the register of deeds of the county or counties in this  
18 State in which the respective associations so merged shall have  
19 their original certificates of incorporation recorded; provided,  
20 that the only fees that shall be collected in connection with the  
21 merger of said associations shall be filing and recording fees.  
22 When such certificate is so filed, the merger agreement shall  
23 take effect according to its terms and shall be binding upon all  
24 the members or stockholders of the associations so merging, and  
25 the same shall thence be taken and deemed to be the act of merger  
26 of such constituent savings and loan associations under the laws  
27 of this State, and such record or certified copy thereof shall be  
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1 evidence of the agreement and act of merger of said savings and  
2 loan associations and the observance and performance of all acts  
3 and conditions necessary to have been observed and performed  
4 precedent to such merger. If the administrator shall disapprove  
5 the proceedings he shall mark the certified copies of the  
6 meetings in his office as disapproved and notify the associations  
7 to that effect. Such disapproval may be appealed by the  
8 association to the Commission.

9 (5) Upon the merger of any association, as above provided,  
10 into another:

11 a. Its corporate existence shall be merged into that of  
12 the receiving association; and all and singular its  
13 rights, powers, privileges and franchises, and all  
14 of its property, including all right, title,  
15 interest in and to all property of whatsoever kind,  
16 whether real, personal or mixed, and things in  
17 action, and every right, privilege, interest or  
18 asset of any conceivable value or benefit then  
19 existing, belonging or pertaining to it, or which  
20 would inure to it under an unmerged existence,  
21 shall immediately by act of law and without any  
22 conveyance or transfer, and without any further act  
23 or deed, be vested in and become the property of  
24 such receiving association which shall have, hold  
25 and enjoy the same in its own right as fully and to  
26 the same extent as if the same were possessed, held  
27 or enjoyed by the association or associations so  
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1 merged; and such receiving association shall absorb  
2 fully and completely the association or  
3 associations so merged.

4 b. Its rights, liabilities, obligations and relations  
5 to any person shall remain unchanged and the  
6 association into which it has been merged shall, by  
7 the merger, succeed to all the relations,  
8 obligations and liabilities as though it had itself  
9 assumed or incurred the same. No obligation or  
10 liability of a member, customer or stockholder in  
11 an association which is a party to the merger shall  
12 be affected by the merger, but obligations and  
13 liabilities shall continue as they existed before  
14 the merger, unless otherwise provided in the merger  
15 agreement.

16 c. A pending action or other judicial proceeding to  
17 which any association that shall be so merged is a  
18 party, shall not be deemed to have abated or to  
19 have discontinued by reason of the merger, but may  
20 be prosecuted to final judgment, order or decree in  
21 the same manner as if the merger had not been made;  
22 or the receiving association may be substituted as  
23 a party to such action or proceeding, and any  
24 judgment, order or decree may be rendered for or  
25 against it that might have been rendered for or  
26 against such other association if the merger had  
27 not occurred.

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1       "§ 54B-36.   Merger of associations where ownership is  
2   converted.--(a)   Any two or more State mutual associations  
3   organized or operating may merge to form a single State stock  
4   association. The procedure to effect such a merger and  
5   conversion of ownership shall be as follows:

6           (1)   The merging associations shall merge (to form a  
7               mutual association), as provided under G.S. 54B-35.

8           (2)   The surviving association shall then convert to a  
9               stock association, as provided under G.S. 54B-33.

10       (b)   Any two or more State stock associations organized or  
11   operating may merge to form a single mutual association. The  
12   procedure to effect such a merger and conversion of ownership  
13   shall be as follows:

14           (1)   The merging associations shall merge (to form a  
15               stock association), as provided under G.S. 54B-35.

16           (2)   The surviving association shall then convert to a  
17               mutual association, as provided under G.S. 54B-34.

18       (c)   The administrator may promulgate rules and regulations to  
19   facilitate the transition from two or more associations to a  
20   single association under a new form of ownership.

21       "§ 54B-37.   Merger of mutual and stock associations.--(a)   Any  
22   State mutual association and any State stock association,  
23   organized or operating, may merge to form a single stock  
24   association. The procedure to effect such a merger shall be as  
25   follows:

26           (1)   The mutual association involved shall convert  
27               separately to a stock association, as provided  
28

1 under G.S. 54B-33.

2 (2) The two stock associations shall then merge to form  
3 a single stock association, as provided in G.S.  
4 54B-35.

5 (b) Any State mutual association, and any State stock  
6 association organized or operating may merge to form a mutual  
7 association. The procedure to effect such merger shall be as  
8 follows:

9 (1) The stock association involved shall convert  
10 separately to a mutual association, as provided  
11 under G.S. 54B-34.

12 (2) The two mutual associations shall then merge to  
13 form a single mutual association, as provided in  
14 G.S. 54B-35.

15 (c) The administrator is hereby empowered to promulgate rules  
16 and regulations to facilitate such a merger of mutual with stock  
17 associations.

18 "§ 54B-38. Merger through stock acquisition.--The  
19 Administrator may approve a plan by which an association may hold  
20 stock of other associations for the purpose of facilitating a  
21 merger of the associations. Such holding shall not exceed a  
22 period of one year from date of approval. If the merger is not  
23 consummated within the year, the holding association shall divest  
24 itself of all such stock within six months. The holding  
25 association may vote the stock only on matters relating to the  
26 merger.

27 "§ 54B-39. Merger of federal with State associations.--(a)  
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1 Any two or more savings associations, when one or more is a State  
2 association and when one or more is a federal association  
3 operating in North Carolina, may merge to form one association  
4 under either a State or federal charter. The procedure to effect  
5 such a merger when the result is to be a federal association  
6 shall be as follows:

7 (1) The State association or associations involved  
8 shall convert to a federal charter or charters, as  
9 provided under G.S. 54B-30.

10 (2) The resulting federal association or associations  
11 shall then merge with the previously existing  
12 federal association or associations under the  
13 provisions of federal law and the rules and  
14 regulations of the Federal Home Loan Bank Board.

15 (b) The procedure to effect such a merger when the result is  
16 to be a State association shall be as follows:

17 (1) The federal association or associations involved  
18 shall convert to a State charter or charters, as  
19 provided under G.S. 54B-31.

20 (2) The resulting State association or associations  
21 shall then merge with the previously existing State  
22 association or associations, as provided under G.S.  
23 54B-35.

24 (c) The administrator may promulgate rules and regulations to  
25 facilitate the merger of State and federal savings and loan  
26 associations.

27 "§ 54B-40. Voluntary dissolution by directors.--A State  
28



1 association may be voluntarily dissolved by a majority vote of  
2 the board of directors as provided in subsection (a) of G.S. 55-  
3 116, and when a certificate of dissolution is recorded in the  
4 manner required by this Chapter for the recording of certificates  
5 of incorporation.

6     "§ 54B-41. Voluntary dissolution by stockholders or members.--  
7 At any annual or special meeting called for such purpose, an  
8 association may, by an affirmative vote in person or by proxy of  
9 at least two thirds of the total number of shares or votes which  
10 all members or stockholders of the association are entitled to  
11 cast, resolve to dissolve and liquidate the association and adopt  
12 a plan of voluntary dissolution. Upon adoption of such  
13 resolution and plan of voluntary dissolution, the members or  
14 stockholders shall proceed to elect not more than three  
15 liquidators who shall post bond as required by the administrator.  
16 The liquidators shall have full power to execute the plan; and  
17 the procedure thereafter shall be as follows:

18             (1) A copy of the resolution certified by the president  
19                 or secretary of the association, together with the  
20                 minutes of the meeting of members or stockholders,  
21                 the plan of liquidation, and an itemized statement  
22                 of the association's assets and liabilities sworn  
23                 to by a majority of its board of directors, shall  
24                 be filed with the administrator. The minutes of  
25                 the meeting of members or stockholders shall be  
26                 certified by the president or secretary of the  
27                 association, and shall set forth the notice given  
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1 and the time of mailing thereof, the vote on the  
2 resolution and the total number of shares or votes  
3 which all members of the association were entitled  
4 to cast thereon, and the names of the liquidators  
5 elected.

6 (2) If the administrator finds that the proceedings are  
7 in accordance with the provisions of this Chapter,  
8 and that the plan of liquidation is not unfair to  
9 any person affected, he shall attach his  
10 certificate of approval to the plan and shall  
11 forward one copy to the liquidators and one copy to  
12 the association's withdrawable account insurance  
13 corporation. Once the administrator has approved  
14 the resolution and the plan of liquidation it shall  
15 thereafter be unlawful for such association to  
16 accept any additional withdrawable accounts or  
17 additions to withdrawable accounts or make any  
18 additional loans, but all its income and receipts  
19 in excess of actual expenses of liquidation of the  
20 association shall be applied to the discharge of  
21 its liabilities.

22 (3) The liquidator or liquidators so appointed shall be  
23 paid a reasonable compensation by the liquidating  
24 association subject to the approval of the  
25 administrator.

26 (4) The plan shall become effective upon the recording  
27 of the administrator's certificate of approval in  
28

1 the manner required by this Chapter for the  
2 recording of the certificate of incorporation.

3 (5) The liquidation of the association shall be subject  
4 to the supervision and examination of the  
5 administrator.

6 "§ 54B-42. Rules, regulations and reports of voluntary  
7 dissolution.--(a) The administrator shall promulgate rules and  
8 regulations governing the dissolution and liquidation of State  
9 associations. These rules and regulations shall include  
10 provisions with respect to:

- 11 (1) the protection and liquidation of assets;
- 12 (2) the plan of liquidation;
- 13 (3) notice to file claims;
- 14 (4) claims of members;
- 15 (5) payments of claims and distribution; and
- 16 (6) final distribution and liquidation.

17 (b) Upon completion of liquidation, the liquidators shall file  
18 with the administrator a final report and accounting of the  
19 liquidation. The approval of the report by the administrator  
20 shall operate as a complete and final discharge of the  
21 liquidators, the board of directors, and each member or  
22 stockholder in connection with the liquidation of such  
23 association. Upon approval of the report, the administrator  
24 shall issue a certificate of dissolution of the association and  
25 shall record same in the manner required by this Chapter for the  
26 recording of certificates of incorporation; and upon such  
27 recording, the dissolution shall be effective.

28

1       "§ 54B-43.   Stock ownership restrictions and dividends.--(a)  
2   Not more than ten percent (10%) of the outstanding capital stock  
3   of a State stock association may be owned by a person either  
4   singly or in combination with an associate

5       (b)   If, as of the effective date of this statute, or at any  
6   time thereafter, a stockholder owns, singly or in combination  
7   with an associate, an amount in excess of ten percent (10%) of  
8   the outstanding capital stock of a stock association, the  
9   association shall notify the administrator within 10 days of  
10  determination of this fact.

11      (c)   Except as otherwise provided in this Chapter, no bank,  
12  State or federal association, credit union or other person, firm  
13  or corporation doing a banking business (receiving, soliciting or  
14  accepting money or its equivalent on deposit as a business) shall  
15  own stock in a stock association. Notwithstanding any other  
16  provision of this Chapter, a corporate trustee shall be permitted  
17  to hold legal ownership of stock in a stock association when such  
18  stock constitutes all or a portion of the corpus of a trust.

19      (d)   No dividends on stock shall be paid unless the association  
20  has the approval of the administrator.

21      "§ 54B-44 to § 54B-50.   Reserved for future codification  
22  purposes.

23                               "ARTICLE 4.

24                               "Supervision and Regulation.

25      "§ 54B-51.   Definitions.--As used in this Article, unless the  
26  context otherwise requires, the term:

27      (1)   'Company' means any corporation, partnership, limited  
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1 partnership, business or voting trust, association other than a  
2 State association, joint venture, pool syndicate, sole  
3 proprietorship, unincorporated organization, or any other form of  
4 business entity or trust excepting only corporations owned by the  
5 United States or a State.

6 (2) 'Control' means that a person:

- 7 a. directly or indirectly, or acting through other  
8 persons or associates, owns, influences, directs,  
9 or has the power to vote more than twenty-five  
10 percent (25%) of any class of voting securities of  
11 a company;  
12 b. directs, influences, or has the power to vote the  
13 election of a majority of the directors of a  
14 company;  
15 c. has the power, directly or indirectly, to exercise a  
16 controlling or directing influence over the  
17 management or policies of a company.

18 "§ 54B-52. Administrator of Savings and Loan Division.--The  
19 Administrator of the Savings and Loan Division of the State is  
20 hereby empowered and directed to perform all the duties and  
21 exercise all the powers as to savings and loan associations  
22 organized or operated under this Chapter, unless herein otherwise  
23 provided.

24 "§ 54B-53. Savings and Loan Commission.--(a) There shall be  
25 in the Department of Commerce a Savings and Loan Commission which  
26 shall consist of seven members, each appointed by the Governor.  
27 The Governor shall on July 1, 1981, appoint three persons to the  
28

1 Commission for four-year terms. On July 1, 1983, he shall  
2 appoint two persons to the Commission for three-year terms, and  
3 two persons for four-year terms. All appointments to the  
4 Commission thereafter shall be for four-year terms. A newly  
5 appointed Commissioner shall assume office at the first regular  
6 or special meeting subsequent to his appointment.

7 (b) The members of the Commission shall elect one of their  
8 number to serve as chairman of the Commission for such term as  
9 set forth in Chapter 9, Title 4 of the North Carolina  
10 Administrative Code. A vice-chairman and other officers may be  
11 elected as specified by the Commission.

12 (c) The term of a Commissioner shall be four years, or until  
13 his successor is appointed.

14 (d) At least two members of the Commission shall be persons  
15 who are currently serving as managing officers of State  
16 associations. Four members of the Commission shall be appointed  
17 as representatives of the borrowing public and shall not be  
18 employees of or directors of any financial institution or have an  
19 interest in any financial institution other than as a result of  
20 being a depositor or borrower.

21 (e) Meetings of the Commission shall be held regularly as  
22 provided in chapter 9, Title 4 of the North Carolina  
23 Administrative Code but no less than once each calendar quarter.  
24 Special meetings shall be held at any time upon the call of the  
25 chairman, or upon the call of any three Commissioners. The  
26 administrator shall call meetings when consideration by the  
27 Commission is required by law for contemplated action of the  
28

1 administrator. Members of the Commission shall be reimbursed as  
2 prescribed by law for expenses incurred in the performance of  
3 their duties under this section.

4 (f) The relationship between the Secretary of Commerce and the  
5 Savings and Loan Commission shall be as defined for a Type II  
6 transfer under Article 143A of the General Statutes.

7 (g) The Savings and Loan Commission is hereby vested with full  
8 power and authority to review, approve, disapprove, or modify any  
9 action taken by the administrator in the exercise of all powers,  
10 duties and functions vested in or exercised by the administrator  
11 under the savings and loan laws of this State.

12 "§ 54B-54. Deputy administrator of Savings and Loan  
13 Division.--(a) There shall be a deputy administrator of the  
14 Savings and Loan Division who, in the event of the absence,  
15 death, resignation, disability or disqualification of the  
16 administrator, or in case the office of administrator shall for  
17 any reason become vacant, shall have and exercise all the powers  
18 and duties vested by law in the administrator.

19 (b) The deputy administrator is authorized and empowered at  
20 any and all times to perform such duties and exercise such powers  
21 of the administrator as the administrator may direct.

22 "§ 54B-55. Power of administrator to promulgate rules and  
23 regulations.--(a) The administrator shall have the right, and is  
24 empowered, to promulgate rules, instructions and regulations as  
25 may be necessary to the discharge of his duties and powers as to  
26 savings and loan associations for the supervision and regulation  
27 of said associations, and for the protection of the public  
28

1 investing in said savings and loan associations.

2 (b) Without limiting the generality of the foregoing  
3 paragraph, rules, instructions, and regulations may be  
4 promulgated with respect to:

5 (1) reserve requirements;

6 (2) stock ownership and dividends;

7 (3) stock transfers;

8 (4) incorporators, stockholders, directors, officers  
9 and employees of an association;

10 (5) bylaws

11 (6) the Savings and Loan Commission;

12 (7) the structure of the office of the administrator;

13 (8) the operation of associations;

14 (9) withdrawable accounts, bonus plans, and contracts  
15 for savings programs;

16 (10) loans and loan expenses;

17 (11) investments;

18 (12) forms and definitions;

19 (13) types of financial records to be maintained by  
20 associations;

21 (14) retention periods of various financial records;

22 (15) internal control procedures of associations;

23 (16) conduct and management of associations;

24 (17) chartering and branching;

25 (18) liquidations;

26 (19) mergers;

27 (20) conversions;

28



1                   (21)     reports    which    may    be    required    by    the  
2                            administrator;

3                   (22)     conflicts of interest;

4                   (23)     taxation;

5                   (24)     service corporations; and

6                   (25)     savings and loan holding companies.

7       (c)    In order to supervise the continuing operation of stock  
8    associations, the administrator shall promulgate rules to ensure  
9    the compliance by such associations.

10       (d)   Any association may cause any or all records by it to be  
11    recorded, copied or reproduced by any photographic, photostatic  
12    or miniature photographic process which correctly, accurately,  
13    permanently copies, reproduces or forms a medium for copying or  
14    reproducing the original record on a film or other durable  
15    material.

16       (e)   Any such photographic, photostatic or miniature  
17    photographic copy or reproduction shall be deemed to be an  
18    original record in all courts and administrative agencies for the  
19    purpose of its admissibility in evidence. A facsimile,  
20    exemplification or certified copy of any such photographic copy  
21    or reproduction shall, for all purposes, be deemed a facsimile,  
22    exemplification or certified copy of the original record.

23       (f)   The provisions of this section with reference to the  
24    retention and disposition of records shall apply to any federal  
25    savings and loan association operating in North Carolina unless  
26    in conflict with regulations prescribed by its supervisory  
27    authority.

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1       "§ 54B-56. Examinations by administrator; report.--(a) If at  
2 any time the administrator deems it prudent, it shall be his duty  
3 to examine and investigate everything relating to the business of  
4 a State association or a savings and loan holding company, and to  
5 appoint a suitable and competent person to make such  
6 investigation, who shall file with the administrator a full  
7 report of his finding in such case, including in his report any  
8 violation of law or any unauthorized or unsafe practices of the  
9 association disclosed by his examination.

10       (b) The administrator shall furnish a copy of the report to  
11 the association examined and may, upon request, furnish a copy of  
12 or excerpts from the report to the Federal Home Loan Bank Board,  
13 a Federal Home Loan Bank, any mutual deposit guaranty association  
14 organized and operated under the provisions of Article 12 of this  
15 Chapter, or the Federal Savings and Loan Insurance Corporation or  
16 its successor.

17       (c) No association may willfully delay or willfully obstruct  
18 an examination in any fashion. Any person failing to comply with  
19 this section shall be guilty of a misdemeanor.

20       (d) No person having in his possession or control any books,  
21 accounts or papers of any State association shall refuse to  
22 exhibit same to the administrator or his agents on demand, or  
23 shall knowingly or willingly make any false statement in regard  
24 to the same. Any person failing to comply with this section  
25 shall be guilty of a misdemeanor.

26       "§ 54B-57. Supervision and examination fees.--(a) Every State  
27 association, including associations in process of voluntary  
28

1 liquidation or savings and loan holding company, shall pay into  
2 the office of the administrator each July a supervisory fee.  
3 Examination fees shall be paid promptly upon an association's  
4 receipt of the examination billing. The administrator, subject  
5 to the advice and consent of the Commission, shall, on or before  
6 June 1 of each year:

7           (1) determine and fix the scale of supervisory and  
8           examination fees to be assessed and collected  
9           during the next fiscal year;

10           (2) determine and fix the amount of the fee and set the  
11           fee collection schedule for the fees to be assessed  
12           to and collected from applicants to defray the cost  
13           of processing their charter, branch, merger,  
14           conversion, location change and name change  
15           applications and all fees associated with foreign  
16           associations.

17           (b) All funds and revenue collected by the Division under the  
18           provisions of this section and the provisions of all other  
19           sections of this Chapter which authorize the collection of fees  
20           and other funds shall be deposited with the State Treasurer of  
21           North Carolina and expended under the terms of the Executive  
22           Budget Act, solely to defray expenses incurred by the office of  
23           the administrator in carrying out its supervisory and auditing  
24           functions.

25           (c) Notwithstanding any of the provisions of subsections (a)  
26           and (b) of this section, whenever the administrator under the  
27           provisions of G.S. 54B-56 appoints a suitable and competent  
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1 person, other than a person employed by the administrator's  
2 office, to make an examination and investigation of the business  
3 of a State association, all costs and expenses relative to such  
4 examination and investigation shall be paid by such association.

5 "§ 54B-58. Prolonged audit, examination or revaluation;  
6 payment of costs.--(a) If, in the opinion of the administrator,  
7 an examination conducted under the provisions of G.S. 54B-57  
8 fails to disclose the complete financial condition of an  
9 association, he may in order to ascertain its complete financial  
10 condition:

11 (1) make an extended audit or examination of the  
12 association or cause such an audit or examination  
13 to be made by an independent auditor;

14 (2) make an extended revaluation of any of the assets  
15 or liabilities of the association or cause an  
16 independent appraiser to make such revaluation.

17 (b) The administrator shall collect from the association a  
18 reasonable sum for actual or necessary expenses of such an audit,  
19 examination or revaluation.

20 "§ 54B-59. Cease and desist orders.--(a) If any person or  
21 association is engaging in, or has engaged in, any unsafe or  
22 unsound practice or unfair and discriminatory practice in  
23 conducting the association's business, or of any other law, rule,  
24 regulation, order or condition imposed in writing by the  
25 administrator, the administrator may issue a notice of charges to  
26 such person or association. A notice of charges shall specify  
27 the acts alleged to sustain a cease and desist order, and state  
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1 the time and place at which a hearing shall be held. A hearing  
2 before the Commission on the charges shall be held no earlier  
3 than seven days, and no later than 14 days after issuance of the  
4 notice. The charged institution is entitled to a further  
5 extension of seven days upon filing a request with the  
6 administrator. The administrator may also issue a notice of  
7 charges if he has reasonable grounds to believe that any person  
8 or association is about to engage in any unsafe or unsound  
9 business practice, or any violation of this Chapter, or any other  
10 law, rule, regulation or order. If, by a preponderance of the  
11 evidence, it is shown that any person or association is engaged  
12 in, or has been engaged in, or is about to engage in, any unsafe  
13 or unsound business practice, or unfair and discriminatory  
14 practice or any violation of this Chapter, or any other law,  
15 rule, regulation, or order, a cease and desist order shall be  
16 issued. The Commission may issue a temporary cease and desist  
17 order to be effective for 14 days and may be extended once for a  
18 period of 14 days.

19 (b) If any person or State association is engaging in, has  
20 engaged in, or is about to engage in any unsafe or unsound  
21 practice in conducting the association's business, or any  
22 violation of this Chapter or of any other law, rules, regulation,  
23 order, or condition imposed in writing by the administrator, and  
24 the administrator has determined that immediate corrective action  
25 is required, the administrator may issue a temporary cease and  
26 desist order. A temporary cease and desist order shall be  
27 effective immediately upon issuance for a period of 14 days, and  
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1 may be extended once for a period of 14 days. Such an order  
2 shall state its duration on its face and the words, 'Temporary  
3 Cease and Desist Order'. A hearing before the Commission shall  
4 be held within such time as such an order remains effective, at  
5 which time a temporary order may be dissolved or made permanent.

6 "§ 54B-60. Administrator to have right of access to books and  
7 records of association; right to issue subpoenas, administer  
8 oaths, examine witnesses.--(a) The administrator and his agents:

9 (1) shall have free access to all books and records of  
10 an association, or a service corporation thereof,  
11 that relate to its business, and the books and  
12 records kept by an officer, agent or employee  
13 relating to or upon which any record is kept;

14 (2) may summon witnesses and administer oaths or  
15 affirmations in the examination of any director,  
16 officer, agent, or employee of an association, or a  
17 service corporation thereof or of any other person  
18 in relation to its affairs, transactions and  
19 conditions;

20 (3) may require the production of records, books,  
21 papers, contracts and other documents; and

22 (4) may order that improper entries be corrected on the  
23 books and records of an association.

24 (b) The administrator may issue subpoenas duces tecum.

25 (c) Each witness who appears before the administrator under a  
26 subpoena shall receive the fees and mileage provided for  
27 witnesses in civil cases in the Wake County Superior Court.  
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1 (d) If a person fails to comply with a subpoena so issued or a  
2 party or witness refuses to testify on any matters, a court of  
3 competent jurisdiction, on the application of the administrator,  
4 shall compel compliance by proceedings for contempt as in the  
5 case of disobedience of the requirements of a subpoena issued  
6 from such court or a refusal to testify in such court.

7 "§ 54B-61. Test appraisals of collateral for loans; expense  
8 paid.--(a) The administrator may direct the making of test  
9 appraisals of real estate and other collateral securing loans  
10 made by associations doing business in this State, employ  
11 competent appraisers, or prescribe a list from which competent  
12 appraisers may be selected, for the making of such appraisals by  
13 the administrator, and do any and all other acts incident to the  
14 making of such test appraisals.

15 (b) In lieu of causing such appraisals to be made, the  
16 administrator may accept an appraisal caused to be made by a  
17 Federal Home Loan Bank, the Federal Home Loan Bank Board or by  
18 the Federal Savings and Loan Insurance Corporation or any mutual  
19 deposit guaranty association organized and operating under the  
20 provisions of Article 12 of this Chapter.

21 (c) The expense and cost of test appraisals made pursuant to  
22 this section shall be defrayed by the association subjected to  
23 such test appraisals, and each association doing business in this  
24 State shall pay all reasonable costs and expenses of such test  
25 appraisals when it shall be directed.

26 "§ 54B-62. Relationship of savings and loan associations with  
27 the Savings and Loan Division.--(a) Except as provided by  
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1 subsection (b) of this section, a savings and loan association or  
2 any director, officer, employee, or representative thereof shall  
3 not grant or give to the administrator or to any employee of the  
4 administrator's office, or to their spouses, any loan or  
5 gratuity, directly or indirectly.

6 (b) Neither the administrator nor any person on the staff of  
7 the Savings and Loan Division shall:

8 (1) hold an office or position in any State association  
9 or exercise any right to vote on any State  
10 association matter by reason of being a member of  
11 the association;

12 (2) be interested, directly or indirectly in any  
13 savings and loan association organized under the  
14 laws of this State; or

15 (3) undertake any indebtedness, as a borrower directly  
16 or indirectly or endorser, surety or guarantor, or  
17 sell or otherwise dispose of any loan or investment  
18 to any savings and loan association organized under  
19 the laws of this State.

20 (c) The administrator shall not be employed by a State  
21 association during the period of two years following his service  
22 as administrator.

23 (d) Notwithstanding subsection (b) of this section, the  
24 administrator or any other person employed in or by his office  
25 may be a withdrawable account holder and receive earnings on such  
26 account.

27 (e) If the administrator or other person has any prohibited  
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1 right or interest in a savings and loan association, either  
2 directly or indirectly, at the time of his appointment or  
3 employment, he shall dispose of it within 60 days after the date  
4 of his appointment, or employment. If the administrator or other  
5 such person is indebted as borrower directly or indirectly, or is  
6 an endorser, surety or guarantor on a note, at the time of his  
7 appointment or employment, he may continue in such capacity until  
8 such loan is paid off.

9 "§ 54B-63. Confidential information.--(a) The following  
10 records or information of the Commission, the administrator or  
11 the agent(s) of either shall be confidential and shall not be  
12 disclosed:

- 13 (1) information obtained or compiled in preparation of  
14 or anticipation of, or during an examination, audit  
15 or investigation of any association;
- 16 (2) information that contains the names of any members  
17 or stockholders of an association or reveals the  
18 collateral given, shares of stock owned by any  
19 stockholder or withdrawable accounts held by a  
20 member or stockholder;
- 21 (3) information obtained, prepared or compiled during  
22 or as a result of an examination, audit or  
23 investigation of any association by an agency of  
24 the United States, if the records would be  
25 confidential under federal law or regulation;
- 26 (4) information and reports submitted by associations  
27 to federal regulatory agencies, if the records or  
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1 information would be confidential under federal law  
2 or regulation;

3 (5) information and records regarding complaints from  
4 the public received by the division which concern  
5 associations, except to the management of those  
6 associations when the complaints would or could  
7 result in an investigation;

8 (6) any other letters, reports, memoranda, recordings,  
9 charts or other documents or records which would  
10 disclose any information of which disclosure is  
11 prohibited in this subsection.

12 (b) A court of competent jurisdiction may order the disclosure  
13 of specific information.

14 (c) The information contained in an application shall be  
15 deemed to be public information. Disclosure shall not extend to  
16 the financial statement of the incorporators nor to any further  
17 information deemed by the administrator to be confidential. When  
18 the Commission approves or rejects the application, the  
19 information shall become confidential.

20 (d) Nothing in this section shall prevent the exchange of  
21 information relating to associations and the business thereof  
22 with the representatives of the financial agencies of this State,  
23 other states, or of the United States, or with reserve or  
24 insuring agencies for associations. The private business and  
25 affairs of an individual or company shall not be disclosed by any  
26 person employed by the Savings and Loan Division, any member of  
27 the Commission, or by any person with whom information is  
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1     exchanged under the authority of this subsection.

2         (e)     Any official or employee violating this section shall be  
3     liable to any person injured by disclosure of such confidential  
4     information for all damages sustained thereby. Penalties  
5     provided shall not be exclusive of other penalties.

6         "§ 54B-64.   Civil penalties; State associations.--(a) Except  
7     as otherwise provided in this Article, any association which is  
8     found to have violated any provision of this Article may be  
9     ordered to forfeit and pay a civil penalty of up to twenty  
10    thousand dollars (\$20,000). Any association which is found to  
11    have violated or failed to comply with any cease and desist order  
12    issued under the authority of this Article may be ordered to  
13    forfeit or pay a civil penalty of up to twenty thousand dollars  
14    (\$20,000) for each day that the violation or failure to comply  
15    continues.

16         (b)     To enforce the provisions of this section, the  
17     administrator is authorized to assess such a penalty and to  
18     appear in a court of competent jurisdiction and to move the court  
19     to order payment of the penalty. Prior to the assessment of the  
20     penalty, a hearing shall be held by the administrator which shall  
21     comply with the provisions of Article 3 of Chapter 150A of the  
22     General Statutes.

23         (c)     If the administrator determines that, as a result of a  
24     violation of any provision of this Article, or of a failure to  
25     comply with any cease and desist order issued under the authority  
26     of this Article, a situation exists requiring immediate  
27     corrective action, the administrator may impose the civil penalty  
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1 in this section on the association without a prior hearing, and  
2 said penalty shall be effective as of the date of notice to the  
3 association. Imposition of such penalty may be directly appealed  
4 to the Wake County Superior Court.

5 "§ 54B-65. Civil penalties; directors, officers and  
6 employees.--(a) Any person, whether a director, officer or  
7 employee, who is found to have violated any provision of this  
8 Article, whether willfully or as a result of gross negligence,  
9 gross incompetency, or recklessness, may be ordered to forfeit  
10 and pay a civil penalty of up to five thousand dollars (\$5,000)  
11 per violation. Any person who is found to have violated or  
12 failed to comply with any cease and desist order issued under the  
13 authority of this Article, may be ordered to forfeit and pay a  
14 civil penalty of up to five thousand dollars (\$5,000) per  
15 violation for each day that the violation or failure to comply  
16 continues.

17 (b) To enforce the provisions of this section, the  
18 administrator is authorized to assess such a penalty and to  
19 appear in a court of competent jurisdiction and to move the court  
20 to order payment of the penalty. Prior to the assessment of the  
21 penalty, a hearing shall be held by the administrator which shall  
22 comply with the provisions of Article 3 of Chapter 150A of the  
23 General Statutes.

24 (c) If the administrator shall determine that an emergency  
25 situation exists requiring immediate corrective action, the  
26 administrator may appear ex parte before a court of competent  
27 jurisdiction and move the court to immediately impose a penalty  
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1 of the type specified in this section. The court shall impose  
2 such a penalty if it finds that there is an emergency situation  
3 posing an immediate threat of significant harm to the association  
4 or its members, stockholders, customers or creditors. If such a  
5 penalty is imposed, a full hearing shall be held by the court  
6 within 10 days of its imposition, at which time said penalty may  
7 be made permanent, or be reversed or amended as the court shall  
8 require.

9 "§ 54B-67. Criminal penalties.--(a) The provisions of this  
10 section shall in no event extend to persons who are found to have  
11 acted only with gross negligence, simple negligence, recklessness  
12 or incompetence.

13 (b) In addition to any of the other penalties or remedies  
14 provided by this Article, the following shall be deemed to be  
15 class J felonies and shall be punishable by imprisonment or fine  
16 or both, as provided in Chapter 14 of the North Carolina General  
17 Statutes:

18 (1) The willful or knowing violation of the provisions  
19 of this Article by any employee of the Savings and  
20 Loan Division.

21 (2) The willful or knowing violation of a cease and  
22 desist order which has become final in that no further  
23 administrative or judicial appeal is available.

24 (c) In addition to any of the other penalties or remedies  
25 provided by this Article, the willful omission, making, or  
26 concurrence in making or publishing a written report, exhibit, or  
27 entry in a financial statement on the books of the association,  
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1 which contains a material statement known to be false shall be  
2 deemed to be a class I felony and shall be punishable by  
3 imprisonment, or fine or both, as provided in Chapter 14 of the  
4 North Carolina General Statutes. For purposes of this section,  
5 'material' shall mean 'so substantial and important as to  
6 influence a reasonable and prudent businessman or investor'.

7 (d) The administrator is authorized to enforce this section in  
8 a court of competent jurisdiction, by the filing of a criminal  
9 complaint, and the court shall impose the penalties provided in  
10 subsection (c) of this section if it finds that the elements of  
11 the alleged offense have been proved beyond a reasonable doubt.  
12 At the timely request of the defendant, and in accordance with  
13 the rules of the court, and the Constitution of this State and  
14 the United States, a jury trial may be instituted.

15 "§ 54B-67. Primary jurisdiction.--Whenever an agency of the  
16 United States Government shall defer to the administrator, or  
17 notify the administrator of pending action against an association  
18 chartered by this State or fail to exercise its authority over  
19 any State or federally chartered association doing business in  
20 this State, the administrator shall have the authority to  
21 exercise jurisdiction over such association.

22 "§ 54B-68. Supervisory control.--(a) Whenever the  
23 administrator determines that an association is conducting its  
24 business in an unsafe or unsound manner or in any fashion which  
25 threatens the financial integrity or sound operation of the  
26 association, the administrator may serve a notice of charges on  
27 the association, requiring it to show cause why it should not be  
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1 placed under supervisory control. Such notice of charges shall  
2 specify the grounds for supervisory control, and set the time and  
3 place for a hearing. A hearing before the Commission pursuant to  
4 such notice shall be held within 15 days after issuance of the  
5 notice of charges, and shall comply with the provisions of  
6 Article 3 of Chapter 150A of the General Statutes.

7 (b) If, after the hearing provided above, Commission  
8 determines that supervisory control of the association is  
9 necessary to protect the association's members, customers,  
10 stockholders or creditors, or the general public, the  
11 administrator shall issue an order taking supervisory control of  
12 the association. An appeal may be filed in the Wake County  
13 Superior Court.

14 (c) If the order taking supervisory control becomes final, the  
15 administrator may appoint an agent to supervise and monitor the  
16 operations of the association during the period of supervisory  
17 control. During the period of supervisory control, the  
18 association shall act in accordance with such instructions and  
19 directions as may be given by the administrator directly or  
20 through his supervisory agent and shall not act or fail to act  
21 except when to do so would violate an outstanding cease and  
22 desist order.

23 (d) Within 180 days of the date the order taking supervisory  
24 control becomes final, the administrator shall issue an order  
25 approving a plan for the termination of supervisory control. The  
26 plan may provide for:

27 (1) the issuance by the association of capital stock;

1           (2)    the appointment of one or more officers and/or  
2                   directors;

3           (3)    the reorganization, merger, or consolidation of the  
4                   association;

5           (4)    the dissolution and liquidation of the association.

6   The order approving the plan shall not take effect for 30 days  
7   during which time period an appeal may be filed in the Wake  
8   County Superior Court.

9       (e)   The costs incident to this proceeding shall be paid by the  
10   association, provided such costs are found to be reasonable.

11       (f)   For the purposes of this section, an order shall be deemed  
12   final if:

13           (1)   no appeal is filed within the specific time allowed  
14                   for the appeal, or

15           (2)   after all judicial appeals are exhausted.

16       "§ 54B-69. Removal of directors, officers and employees.-- (a)  
17   If, in the administrator's opinion, one or more directors,  
18   officers or employees of any association has participated in or  
19   consented to any violation of this Chapter, or any other law,  
20   rule, regulation or order, or any unsafe or unsound business  
21   practice in the operation of any association; or any insider loan  
22   not specifically authorized by or pursuant to this Chapter; or  
23   any repeated violation of or failure to comply with any  
24   association's bylaws, the administrator may serve a written  
25   notice of charges upon the director, officer or employee in  
26   question, and the association, stating his intent to remove said  
27   director, officer or employee. Such notice shall specify the  
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1     conduct and place for the hearing before the Commission to be  
2     held. A hearing shall be held no earlier than 15 days and no  
3     later than 30 days after the notice of charges is served, and it  
4     shall comply with the provisions of Article 3 of Chapter 150A of  
5     the General Statutes. If, after the hearing, the Commission  
6     determines that the charges asserted have been proven by a  
7     preponderance of the evidence, the administrator may issue an  
8     order removing the director, officer or employee in question.  
9     Such an order shall be effective upon issuance and may include  
10    the entire board of directors or all of the officers of the  
11    association.

12       (b) If it is determined that any director, officer or employee  
13    of any association has knowingly participated in or consented to  
14    any violation of this Chapter, or any other law, rule, regulation  
15    or order, or engaged in any unsafe or unsound business practice  
16    in the operation of any association, or any repeated violation of  
17    or failure to comply with any association's bylaws, and that as a  
18    result, a situation exists requiring immediate corrective action,  
19    the administrator may issue an order temporarily removing such  
20    person or persons pending a hearing. Such an order shall state  
21    its duration on its face and the words, 'Temporary Order of  
22    Removal', and shall be effective upon issuance, for a period of  
23    15 days, and may be extended once for a period of 15 days. A  
24    hearing must be held within 10 days of the expiration of a  
25    temporary order, or any extension thereof, at which time a  
26    temporary order may be dissolved or converted to a permanent  
27    order.

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(c) Any removal pursuant to Subsections (a) or (b) of this section shall be effective in all respects as if such removal had been made by the board of directors, the members or the stockholders of the association in question.

(d) Without the prior written approval of the administrator, no director, officer or employee permanently removed pursuant to this section shall be eligible to be elected, reelected or appointed to any position as a director, officer or employee of that association, nor shall such a director, officer or employee be eligible to be elected to or retain a position as a director, officer or employee of any other State association.

"§ 54B-70. Involuntary liquidation.--(a) The administrator with prior approval of the Commission may take custody of the books, records and assets of every kind and character of any association organized and operated under the provisions of this Chapter for any of the purposes hereinafter enumerated, if it reasonably appears from examinations or from reports made to the administrator that:

(1) the directors, officers, or liquidators have neglected, failed or refused to take such action which the administrator may deem necessary for the protection of the association, or have impeded or obstructed an examination; or

(2) the withdrawable capital of the association is impaired to the extent that the realizable value of its assets is insufficient to pay in full its creditors and holders of withdrawable accounts; or

1                   its liquidity fund or General Reserve Account is  
2                   impaired; or

3           (3)     the business of the association is being conducted  
4                   in a fraudulent, illegal or unsafe manner, or that  
5                   the association is in an unsafe or unsound  
6                   condition to transact business; (any association  
7                   which, except as authorized in writing by the  
8                   administrator, fails to make full payment of any  
9                   withdrawal when due is in an unsafe or unsound  
10                  condition to transact business, notwithstanding  
11                  such provisions of the certificate of incorporation  
12                  or such statutes or regulations with respect to  
13                  payment of withdrawals in event an association does  
14                  not pay all withdrawals in full); or

15          (4)     the officers, directors, or employees have assumed  
16                  duties or performed acts in excess of those  
17                  authorized by statute or regulation or charter, or  
18                  without supplying the required bond; or,

19          (5)     the association has experienced a substantial  
20                  dissipation of assets or earnings due to any  
21                  violation or violations of statute or regulation,  
22                  or due to any unsafe or unsound practice or  
23                  practices; or

24          (6)     the association is insolvent, or is in imminent  
25                  danger of insolvency or has suspended its ordinary  
26                  business transactions due to insufficient funds; or

27          (7)     the association is unable to continue operations.

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1 (b) Unless the administrator finds that such an emergency  
2 exists which may result in loss to members, withdrawable account  
3 holders, stockholders, or creditors, and which requires that he  
4 take custody immediately, he shall first give written notice to  
5 the directors and officers specifying the conditions criticized  
6 and allowing a reasonable time in which corrections may be made  
7 before a receiver shall be appointed as outlined in subsection  
8 (d) below.

9 (c) The purposes for which the administrator may take custody  
10 of an association include examination or further examination;  
11 conservation of its assets; restoration of impaired capital; the  
12 making of any reasonable or equitable adjustment deemed necessary  
13 by the administrator under any plan of reorganization.

14 (d) If the administrator after taking custody of an  
15 association, finds that one or more of the reasons for having  
16 taken custody continue to exist through the period of his  
17 custody, with little or no likelihood of amelioration of the  
18 situation, then he shall appoint as receiver or co-receiver any  
19 qualified person, firm or corporation for the purpose of  
20 liquidation of the association, which receiver shall furnish bond  
21 in form, amount and with surety as the administrator may require.  
22 The administrator may appoint the association's withdrawable  
23 account insurance corporation or its nominee as the receiver, and  
24 such insuring corporation shall be permitted to serve without  
25 posting bond.

26 (e) In the event the administrator appoints a receiver for an  
27 association, he shall mail a certified copy of the appointment  
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1 order by certified mail to the address of the association as it  
2 shall appear on the records of the Division, and to any previous  
3 receiver or other legal custodian of the association, and to any  
4 court or other authority to which such previous receiver or other  
5 legal custodian is subject. Notice of such appointment shall be  
6 published in a newspaper of general circulation in the county  
7 where such association has its principal office.

8 (f) Whenever a receiver for an association is appointed  
9 pursuant to subsection (d) above the association may within 30  
10 days thereafter bring an action in the Superior Court of Wake  
11 County, for an order requiring the administrator to remove such  
12 receiver.

13 (g) The duly appointed and qualified receiver shall take  
14 possession promptly of the association for which he or it has  
15 been so appointed, in accordance with the terms of such  
16 appointment, by service of a certified copy of the  
17 administrator's appointment order upon the association at its  
18 principal office through the officer or employee who is present  
19 and appears to be in charge. Immediately upon taking possession  
20 of the association, the receiver shall take possession and title  
21 to books, records and assets of every description of such  
22 association. The receiver, by operation of law and without any  
23 conveyance or other instrument, act or deed, shall succeed to all  
24 the rights, titles, powers and privileges of the association, its  
25 members or stockholders, holders of withdrawable accounts, its  
26 officers and directors or any of them; and to the titles to the  
27 books, records and assets of every description of any previous  
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1 receiver or other legal custodian of such association. Such  
2 members, stockholders, holders of withdrawable accounts, officers  
3 or directors, or any of them, shall not thereafter ,except as  
4 hereinafter expressly provided, have or exercise any such rights,  
5 powers or privileges or act in connection with any assets or  
6 property of any nature of the association in receivership:  
7 Provided however, that any officer, director, member,  
8 stockholder, withdrawable account holder, or borrower of such  
9 association shall have the right to communicate with the  
10 administrator with respect to such receivership. The  
11 administrator, with the approval of the Commission, may at any  
12 time, direct the receiver to return the association to its  
13 previous or a newly constituted management. The administrator  
14 may provide for a meeting or meetings of the members or  
15 stockholders for any purpose, including, without any limitation  
16 on the generality of the foregoing, the election of directors or  
17 an increase in the number of directors, or both, or the election  
18 of an entire new board of directors; and may provide for a  
19 meeting or meetings of the directors for any purpose including,  
20 without any limitation on the generality of the foregoing, the  
21 filling of vacancies on the board, the removal of officers and  
22 the election of new officers, or for any of such purposes. Any  
23 such meeting of members or stockholders, or of directors, shall  
24 be supervised or conducted by a representative of the  
25 administrator.

26 (h) A duly appointed and qualified receiver shall have power  
27 and authority to:

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- (1) demand, sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes, and property of every description of the association;
- (2) foreclose mortgages, deeds of trust, and other liens executed to the association to the extent the association would have had such right;
- (3) institute suits for the recovery of any estate, property, damages, or demands existing in favor of the association, and he shall, upon his own application, be substituted as party plaintiff in the place of the association in any suit or proceeding pending at the time of his appointment;
- (4) sell, convey, and assign all the property rights and interest owned by the association;
- (5) appoint agents to serve at his pleasure;
- (6) examine and investigate papers and persons, and pass on claims as provided in the regulations as prescribed by the administrator;
- (7) make and carry out agreements with the insuring corporation or with any other financial institution for the payment or assumption of the association liabilities, in whole or in part, and to sell, convey, transfer, pledge, or assign assets as security or otherwise and to make guarantees in connection therewith; and

1           (8)   perform all other acts which might be done by the  
2                   employees, officers and directors.

3   Such powers shall be continued in effect until liquidation and  
4   dissolution or until return of the association to its prior or  
5   newly constituted management.

6   (i)   A receiver may at any time during the receivership and  
7   prior to final liquidation be removed and a replacement appointed  
8   by the administrator.

9   (j)   The administrator may determine that such liquidation  
10   proceedings should be discontinued. He shall then remove the  
11   receiver and restore all the rights, powers, and privileges of  
12   its members and stockholders, customers, employees, officers and  
13   directors, or restore such rights, powers, and privileges to its  
14   members, stockholders and customers, and grant such rights,  
15   powers and privileges to a newly constituted management, all as  
16   of the time of such restoration of the association to its  
17   management unless another time for such restoration shall be  
18   specified by the administrator. The return of an association to  
19   its management or to a newly constituted management from the  
20   possession of a receiver shall, by operation of law and without  
21   any conveyance or other instrument, act or deed, vest in such  
22   association the title to all property held by the receiver in his  
23   capacity as receiver for such association.

24   (k)   A receiver may also be appointed under the authority of  
25   G.S. 1-502. No judge or court, however, shall appoint a receiver  
26   for any State association unless five days' advance notice of the  
27   motion, petition or application for appointment of a receiver  
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1 shall have been given to such association and to the  
2 administrator.

3 (l) Following the appointment of a receiver, the administrator  
4 shall request the Attorney General to institute an action in the  
5 name of the administrator in the superior court against the  
6 association for the orderly liquidation and dissolution of the  
7 association, and for an injunction to restrain the officers,  
8 directors and employees from continuing the operation of the  
9 association.

10 (m) Claims against a State association in receivership shall  
11 have the following order of priority for payment:

12 (1) costs, expenses and debts of the association  
13 incurred on or after the date of the appointment of  
14 the receiver, including compensation for the  
15 receiver;

16 (2) claims of general creditors;

17 (3) claims of holders of special purpose or thrift  
18 accounts;

19 (4) claims of holders of withdrawable accounts;

20 (5) claims of stockholders of a stock association;

21 (6) all remaining assets to members and stockholders in  
22 an amount proportionate to their holdings as of the  
23 date of the appointment of the receiver.

24 (n) All claims of each class described within subsection (m)  
25 above shall be paid in full so long as sufficient assets remain.  
26 Members of the class for which the receiver cannot make payment  
27 in full because assets will be depleted during payment to such  
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1 class shall be paid an amount proportionate to their total  
2 claims.

3 (o) The administrator shall have the authority to direct the  
4 payment of claims for which no provision is herein made, and may  
5 direct the payment of claims within a class. The administrator  
6 shall have the authority to promulgate rules and regulations  
7 governing the payment of claims by an association in  
8 receivership.

9 (p) When all assets of the association have been fully  
10 liquidated, and all claims and expenses have been paid or  
11 settled, and the receiver shall recommend a final distribution,  
12 the dissolution of the association in receivership shall be  
13 accomplished in the following manner:

14 (1) The receiver shall file with the administrator a  
15 detailed report, in a form to be prescribed by the  
16 administrator, of his acts and proposed final  
17 distribution, and dissolution.

18 (2) Upon the administrator's approval of the final  
19 report of the receiver, the receiver shall provide  
20 such notice and thereafter shall make such final  
21 distribution, in such manner as the administrator  
22 may direct.

23 (3) When a final distribution has been made except as  
24 to any unclaimed funds, the receiver shall deposit  
25 such unclaimed funds with the administrator and  
26 shall deliver to the administrator all books and  
27 records of the dissolved association.  
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(4) Upon completion of the foregoing procedure, and upon the joint petition of the administrator and receiver to the superior court, the court may find that the association should be dissolved, and following such publication of notice of dissolution as the court may direct, the court may enter a decree of final resolution and the association shall thereby be dissolved.

(5) Upon final dissolution of the association in receivership or at such time as the receiver shall be otherwise relieved of his duties, the administrator shall cause an audit to be conducted, during which the receiver shall be available to assist in such. The accounts of the receiver shall then be ruled upon by the administrator and Commission and if approved, the receiver shall thereupon be given a final and complete discharge and release.

"§ 54B-71. Judicial review.--Any person or State Association against whom a cease and desist order is issued or a fine is imposed may have such order or fine reviewed by a court of competent jurisdiction. Except as otherwise provided, an appeal may be made only within 30 days of the issuance of the order or the imposition of the fine, whichever is later.

"§ 54B-72. Idemnity.--No person who is fined or penalized for a violation of any criminal provision of this Article shall be reimbursed or indemnified in any fashion by the association for

1 such fine or penalty.

2 "§ 54B-73. Cumulative penalties.--All penalties, fines, and  
3 remedies provided by this Article shall be cumulative.

4 "§ 54B-74. Annual license fees.--All State associations shall  
5 pay an annual license fee, and may be licensed upon filing with  
6 the administrator an application in such form as the  
7 administrator may prescribe. Such license fee shall be used to  
8 defray the expenses incurred by the Division in supervising State  
9 associations.

10 "§ 54B-75. Statement filed by association.--Every State  
11 association shall file in the office of the administrator, on or  
12 before the first day of February in each year, in such form as  
13 the administrator shall prescribe, a statement of the business  
14 standing and financial condition of such association on the  
15 preceding 31st day of December, signed and sworn to by the  
16 managing officer and secretary thereof before the administrator,  
17 or before a notary public.

18 "§ 54B-76. Statement examined, approved, and published.--It  
19 shall be the duty of the administrator to receive and thoroughly  
20 examine each annual statement required by G.S. 54B-75, and if  
21 made in compliance with the requirements thereof, each State  
22 association shall publish an abstract of the same in one of the  
23 newspapers of the State, to be selected by the managing officer  
24 making the statement, and at the expense of the association.

25 "§ 54B-77. Certain powers granted to State associations.--(a)  
26 In addition to the powers granted under this Chapter, any savings  
27 and loan association incorporated or operated under the  
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1 provisions of this Chapter is herein authorized to:

2           (1) establish off the premises of any principal office  
3 or branch a customer communications terminal,  
4 point-of-sale terminal, automated teller machine,  
5 automated or other direct or remote information-  
6 processing device or machine, whether manned or  
7 unmanned, through or by means of which funds or  
8 information relating to any financial service or  
9 transaction rendered to the public is stored and  
10 transmitted, instantaneously or otherwise to or  
11 from an association terminal or terminals  
12 controlled or used by or with other parties; and  
13 the establishment and use of such a device or  
14 machine shall not be deemed to constitute a branch  
15 office and the capital requirements and standards  
16 for approval of a branch office as set forth in the  
17 statutes and regulations, shall not be applicable  
18 to the establishment of any such off-premises  
19 terminal, device or machine; and associations may  
20 through mutual consent share on-premises unmanned  
21 automated teller machines and cash dispensers. The  
22 administrator may prescribe rules and regulations  
23 with regard to the application for permission for  
24 use, maintenance and supervision of said terminals,  
25 devices and machines;

26           (2) subject to such regulations as the administrator  
27 may prescribe, a State-chartered association is  
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1 authorized to issue credit cards, extend credit in  
2 connection therewith, and otherwise engage in or  
3 participate in credit card operations;

4 (3) subject to such regulations as the administrator  
5 may prescribe, a State-chartered association may  
6 act as a trustee, executor, administrator, guardian  
7 or in any other fiduciary capacity permitted for  
8 federal savings and loan associations by the  
9 Congress of the United States, Federal Home Loan  
10 Bank Board and the Federal Savings and Loan  
11 Insurance Corporation;

12 (4) (a) in accordance with rules and regulations issued  
13 by the administrator, mutual capital certificates  
14 may be issued by State-chartered associations and  
15 sold directly to subscribers or through  
16 underwriters, and such certificates shall  
17 constitute part of the general reserve and net  
18 worth of the issuing association. The  
19 administrator, in the rules and regulations  
20 relating to the issuance and sale of mutual capital  
21 certificates, shall provide that such certificates:

22 (i) shall be subordinate to all savings accounts,  
23 savings certificates, and debt obligations;

24 (ii) shall constitute a claim in liquidation on  
25 the general reserves, surplus and undivided  
26 profits of the association remaining after the  
27 payment of all savings accounts, savings  
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1 certificates, and debt obligations;  
2 (iii) shall be entitled to the payment of  
3 dividends; and  
4 (iv) may have a fixed or variable dividend rate.  
5 (b) the administrator shall provide in the rules and  
6 regulations for charging losses to the mutual  
7 capital certificate, reserves, and other net worth  
8 accounts.

9 "§ 54B-78 to 54B-99. Reserved for future codification  
10 purposes.

11 "ARTICLE 5.

12 "Corporate Administration.

13 "§ 54B-100. Membership of a mutual association.--(a) The  
14 membership of a mutual association organized or operated under  
15 the provisions of this Chapter shall consist of:

- 16 (1) those who hold withdrawable accounts in an  
17 association; and  
18 (2) those who borrow funds and those who become  
19 obligated on a loan from the association, for such  
20 time as the loan remains unpaid and the borrower  
21 remains liable to the association for the payment  
22 thereof.

23 Any person in his own right, or in a trust or other fiduciary  
24 capacity, or any partnership, association, corporation, political  
25 subdivision or public or governmental unit or entity may become a  
26 member of a mutual association. Members shall be possessed of  
27 such voting rights and such other rights as are provided by an  
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1 association's certificate of incorporation and bylaws as approved  
2 by the administrator. Members are the owners of a mutual  
3 association.

4 "§ 54B-101. Directors.--(a) The directors of a mutual  
5 association shall be elected by the members at an annual meeting,  
6 held pursuant to the terms of G.S. 54B-106, for such terms as the  
7 bylaws of the association may provide. Voting for directors  
8 shall be weighted according to the total amount of withdrawable  
9 accounts held by a member, subject to a maximum number of votes  
10 per member. Such requirements shall be fully prescribed in a  
11 detailed manner in the bylaws of the association.

12 (b) The directors of a stock association shall be elected by  
13 the stockholders at an annual meeting, held pursuant to the terms  
14 of G.S. 54B-106, for such terms as the bylaws of the association  
15 may provide. Voting for directors shall be weighted according to  
16 the number of shares of stock held by a stockholder. Such  
17 requirements shall be fully prescribed in a detailed manner in  
18 the bylaws of the association.

19 "§ 54B-102. Officers and employees.--The board of directors  
20 may set, in the bylaws, employment policies as are appropriate  
21 for the transaction of the business of an association. The  
22 managing officer of an association shall be selected by the board  
23 of directors. The remaining officers and employees of the  
24 association shall be selected by the managing officer.

25 "§ 54B-103. Duties and liabilities of officers and directors  
26 to their associations.--Officers and directors of a State  
27 association shall act in a fiduciary capacity towards the  
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1 association and its members or stockholders. They shall  
2 discharge duties of their respective positions in good faith, and  
3 with that diligence and care which ordinarily prudent men would  
4 exercise under similar circumstances in like positions.

5 "§ 54B-104. Conflicts of interest.--Each director, officer and  
6 employee of a State association has a fundamental duty to avoid  
7 placing himself in a position which creates, or which leads to or  
8 could lead to a conflict of interest or appearance of a conflict  
9 of interest having adverse effects on the interests of members,  
10 customers or stockholders of the association, the soundness of  
11 the association, and the provision of economical home financing  
12 for this State.

13 "§ 54B-105. Voting rights.--Voting rights in the affairs of a  
14 State association may be exercised by members and stockholders by  
15 voting either in person or by proxy. The administrator shall  
16 promulgate rules and regulations governing forms of proxies,  
17 holders of proxies and proxy solicitation.

18 "§ 54B-106. Annual meetings; notice required.--(a) Each  
19 association shall hold an annual meeting of its members or  
20 stockholders. The annual meeting shall be held at a time and  
21 place as shall be provided in the bylaws or determined by the  
22 board of directors.

23 (b) The board of directors of a mutual association shall cause  
24 to be published once a week for two weeks preceding such meeting,  
25 in a newspaper of general circulation published in the county  
26 where such association has its principal office, a notice of the  
27 meeting, signed by the association's secretary, and stating the  
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1 time and place where it is to be held. In addition to the  
2 foregoing notice, each association shall disseminate additional  
3 notice of any annual meeting by notice made available to all  
4 members entering the premises of any office or branch of the  
5 association in the regular course of business by posting therein,  
6 in full view of the public and such members, one or more  
7 conspicuous signs or placards announcing the pending meeting, the  
8 time, date and place of the meeting and the availability of  
9 additional information. Printed matter shall be freely available  
10 to said members containing any information as may be prescribed  
11 in rules and regulations issued by the administrator. Such  
12 additional notice shall be given at any time within the period of  
13 60 days prior to and 14 days prior to the meeting and shall  
14 continue through the time of the meeting.

15 (c) The board of directors of a stock association shall cause  
16 a written or printed notice signed by the association's  
17 secretary, and stating the time and place of the annual meeting  
18 to be delivered not less than 10 days nor more than 50 days  
19 before the date of the meeting, either personally or by mail to  
20 each stockholder of record entitled to vote at the meeting. If  
21 mailed, such notice shall be deemed to be delivered when  
22 deposited in the United States Postal Service addressed to the  
23 stockholder at his address as it appears on the record of  
24 stockholders of the corporation, with postage thereon prepaid.

25 "§ 54B-107. Special meetings; notice required.--(a) Special  
26 meetings of members or stockholders of an association may be  
27 called by the president or the board of directors or by such  
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1 other officers or persons as may be provided for in the charter  
2 or bylaws of the association.

3 (b) Notice of any special meeting of members or stockholders  
4 shall be given in the same manner as provided for annual meetings  
5 under G.S. 54B-106.

6 "§ 54B-108. Quorum.--Unless otherwise provided in the  
7 association's charter or bylaws, 50 holders of withdrawable  
8 accounts in a mutual association or 50 stockholders or a majority  
9 of shares eligible to vote in a stock association, present in  
10 person or represented by proxy, shall constitute a quorum at any  
11 annual or special meeting.

12 "§ 54B-109. Indemnification.--(a) An association shall  
13 maintain a blanket indemnity bond of at least a minimum amount as  
14 prescribed by the administrator.

15 (b) An association which employs collection agents, who for  
16 any reason are not covered by the bond as hereinabove required,  
17 shall provide for the bonding of each such agent in an amount  
18 equal to at least twice the average monthly collections of such  
19 agent. Such agents shall be required to make settlement with the  
20 association at least once monthly. No such coverage by bond will  
21 be required of any agent which is a bank insured by the Federal  
22 Deposit Insurance Corporation or an association insured by the  
23 Federal Savings and Loan Insurance Corporation or a mutual  
24 deposit guaranty association. The amount and form of such bonds  
25 and the sufficiency of the surety thereon shall be approved by  
26 the board of directors and the administrator before such is  
27 valid. All such bonds shall provide that a cancellation thereof

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1    either by the surety or by the insured shall not become effective  
2    unless and until 30 days' notice in writing shall have been given  
3    to the administrator.

4        (c)    The administrator may require every member of the board of  
5    directors, officer or employee of an association who shall  
6    knowingly make, approve, participate in, or assent to, or who  
7    knowingly shall permit any of the officers or agents of the  
8    association to make investments not authorized by this Chapter,  
9    to deposit with the association an indemnity bond, insurance or  
10   collateral of a kind and amount sufficient to indemnify the  
11   association against damage which the association or its members  
12   or stockholders sustain in consequence of such unauthorized  
13   investment.

14        (d)    The amount considered sufficient to indemnify the  
15   association shall, in the case of an unauthorized loan, be the  
16   difference between the book value of the loan and the amount that  
17   could legally have been made under the provisions of this  
18   Chapter. The amount considered sufficient to indemnify the  
19   association shall, in the case of an unauthorized other  
20   investment, be the difference between the book value and the  
21   market value of the investment at the time when the administrator  
22   makes his determination that such investment is unauthorized.  
23   Whenever an unauthorized investment has been sold or disposed of  
24   without recourse, the administrator shall release such part of  
25   the indemnity as remains after deducting any loss, which amount  
26   shall be retained by the association. Whenever the balance of an  
27   unauthorized loan has been reduced to an amount which would  
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1 permit such loan to be made in compliance with the provisions of  
2 this Chapter, the indemnity shall be released. The  
3 administrator, in making such determination may require an  
4 independent appraisal of the security.

5 (e) the administrator shall cause to be examined annually all  
6 such bonds and pass on their sufficiency and either the board of  
7 directors or the administrator may require new or additional  
8 bonds at any time.

9 (f) The administrator is empowered to promulgate rules and  
10 regulations with respect to litigation expenses and other  
11 indemnity matters.

12 "§ 54B-110 to 54B-120. Reserved for future codification  
13 purposes.

14 "ARTICLE 6.

15 "Withdrawable Accounts.

16 "§ 54B-121. Creation of withdrawable accounts.--(a) Every  
17 State association shall be authorized to raise capital through  
18 the solicitation of investments from any person, natural or  
19 corporate, except as restricted or limited by law, or by such  
20 regulations as the administrator may prescribe.

21 (b) Such funds obtained through the solicitation of  
22 investments shall be held by an association in accounts  
23 designated generally as withdrawable accounts.

24 (c) An association may establish as many classes of  
25 withdrawable accounts as may be provided for in its certificate  
26 of incorporation or bylaws, subject to such regulations and  
27 limitations as the administrator may prescribe.

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1           (1)    At least one class of withdrawable accounts shall  
2                   be established by which the holder, upon notice to  
3                   the association, shall be able to withdraw the  
4                   entire balance of such account without any penalty.  
5                   The required period of notice, not to exceed 30  
6                   days, shall be determined by the board of directors  
7                   of each association.

8           (2)    For any additional classes of withdrawable accounts  
9                   that may be established, the board may require a  
10                  fixed minimum amount of money and a fixed minimum  
11                  term, at the end of which, the account holder,  
12                  without any notice on his part, shall be entitled  
13                  to payment of the final balance of the funds in  
14                  such account. Such minimum amount and minimum term  
15                  and the rate of dividends on withdrawable accounts  
16                  shall be agreed upon prior to the transfer to the  
17                  association of any funds by the account holder and  
18                  shall be evidenced by an executed contract.  
19                  Associations shall mail to each natural person  
20                  account holder notification of the date of maturity  
21                  of accounts at least 10 days prior to maturity.

22                a.   An association may impose a penalty upon the  
23                      holder of such account to be assessed at the  
24                      time of any withdrawal from the account prior  
25                      to the date of termination of the minimum term  
26                      for which the account holder contracted.

27                b.   An association may require that the holder of  
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1                   such an account provide the association with  
2                   not less than 30 days notice of an intended  
3                   withdrawal prior to the date of the  
4                   termination of the account contract.

5                   c. When the date of termination of such an account  
6                   is passed, and the account is mature and  
7                   payable, all payments thereon by the holder  
8                   and all dividends on withdrawable account  
9                   credits thereto by the association shall  
10                  cease. However, if the holder shall notify  
11                  the association, prior to the termination date  
12                  of the account, that he wishes to extend the  
13                  life of the account, the association shall  
14                  renew the account and continue to accept  
15                  payments and/or make dividends on withdrawable  
16                  account credits or cancel the account as  
17                  provided under the original contract.

18                  d. Unless the association receives notification  
19                  within the proper time period and renews the  
20                  account, then upon the date of termination, it  
21                  shall either pay to the holder of the account  
22                  the final value thereof, or mail a notice to  
23                  the holder at his last address as it appears  
24                  on the records of the association to the  
25                  effect that he is entitled to receive payment  
26                  for the account.

27                  e. If the association does not make payment to the  
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holder of the account upon the date of termination and instead mails a notice to him as provided in paragraph (d) above, then until such time as the holder is paid, the account shall earn dividends on withdrawable accounts at a rate not less than the rate which the association is paying on its account or accounts established under Subdivision (1) above, unless provided otherwise by the account contract.

f. Whenever an association has funds in an amount insufficient to make immediate payment upon the date of termination of an account, or upon an application for withdrawal, the maturity shall be paid in accordance with the provisions of G.S. 54B-124. Whenever such a situation arises, dividends on withdrawable accounts shall be credited to the account at a rate not less than the rate provided for in the account contract.

"§ 54B-122. Additional requirements.--Withdrawable accounts shall be:

(1) withdrawable upon demand, subject to the requisite advance notice to the association by the holder, as listed in G.S. 54B-121(c) (2) b. and by such regulations as the administrator may prescribe;



1 (2) entitled to dividends as provided herein or in such  
2 regulations as the administrator may prescribe;

3 (3) evidenced by an executed contract setting forth any  
4 special terms and provisions applicable to the account and the  
5 conditions upon which withdrawal may be made. The form of such  
6 contract shall be subject to the prior approval of the  
7 administrator and shall be held by the association as part of its  
8 records pertaining to the account. The association shall issue  
9 to the holder of the account either an account book or  
10 certificate as evidence of ownership of the account.

11 "§ 54B-123. Dividends on withdrawable accounts.--(a) An  
12 association shall compute and pay dividends on withdrawable  
13 accounts in accordance with such terms and conditions as are  
14 herein prescribed, and subject to additional limitation and  
15 restrictions as shall be set forth in its bylaws, or certificate  
16 of incorporation and resolutions of its board of directors.

17 (b) Savings and loan associations are not limited in the  
18 amount of dividends they may pay on withdrawable accounts. The  
19 Administrator shall have the authority to insure that no  
20 association pays dividends on withdrawable accounts inconsistent  
21 with the association's continued solvency, and safe and proper  
22 operation.

23 "§ 54B-124. Withdrawals from withdrawable accounts.--(a) A  
24 withdrawable account holder may at any time make written  
25 application for withdrawal of all or any part of the withdrawal  
26 value thereof except to the extent the same may be pledged as  
27 security for a loan, as recorded by the association. The  
28

1 association shall number, date, and file every unpaid withdrawal  
2 application in the order of actual receipt.

3 (b) An association shall pay the total amount of the  
4 withdrawal value of a withdrawable account upon application from  
5 the holder of the account, except as otherwise provided in this  
6 section. Payment shall be made in full, without exception, to  
7 holders of withdrawable accounts whose withdrawable account  
8 totals one hundred dollars (\$100.00) or less.

9 (c) If an association has funds in the treasury and from  
10 current receipts in an amount insufficient to pay all long term  
11 withdrawable accounts which are mature and due and all  
12 applications for withdrawal, then within seven days after such  
13 accounts mature or payment is due, the board of directors of such  
14 association shall provide by resolution:

15 (1) a statement of the amount of money available in  
16 each calendar month to pay maturities and  
17 withdrawals, in accordance with safe and required  
18 operating procedures; provided, that after making  
19 provision for expenses, debts, obligations and cash  
20 dividends on withdrawable accounts, not less than  
21 one hundred percent (100%) of the remainder of cash  
22 treasury funds and current receipts shall be made  
23 available for the payment of outstanding  
24 applications for withdrawal and maturities;

25 (2) a list of matured withdrawable accounts in order of  
26 their maturity, and if in the same series, in order  
27 of issuance within such series; and a list of  
28

1 applications for withdrawal in order of actual  
2 receipt;

3 (3) for a maximum sum, set by the administrator which  
4 shall be paid to any one holder of a withdrawable  
5 account, for which a maturity or an application for  
6 withdrawal has not been paid, in any one month; and  
7 if the maturity or withdrawal due shall exceed the  
8 sum so fixed, then the holder shall be paid such  
9 sum in his turn according to the due date of the  
10 maturity or the filing date of the application; and  
11 his application shall be deemed refiled for payment  
12 in order in the next month; and such limited  
13 payment shall be made on a fixed date in each month  
14 for so long as any application or maturity remains  
15 unpaid.

16 (d) A withdrawable account pledged by the holder as sole  
17 security or partial security for a loan shall be subject to the  
18 withdrawal provisions of this section, but an application for  
19 withdrawal from such account shall be paid only if the resulting  
20 balance in such account would equal or exceed the outstanding  
21 loan balance, or portion thereof, secured by the withdrawable  
22 account. However, withdrawal of any additional amount from the  
23 account may be permitted, provided that such payment of such  
24 withdrawal application shall be applied first to the outstanding  
25 balance of the loan.

26 (e) The contents of a withdrawable account may be accepted by  
27 an association in payment or partial payment for any real  
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1 property or other assets owned by the association and being sold.

2 (f) The holder of a withdrawable account which is mature and  
3 payable or for which application for withdrawal has been made  
4 does not become a creditor of the association merely by reason of  
5 such payment due to him.

6 (g) Any such resolution adopted by an association's board of  
7 directors pursuant to this section shall be submitted to the  
8 administrator for his approval or rejection. If he finds such to  
9 be fair to all affected parties, he shall approve it. If he  
10 determines otherwise, such resolution shall be rejected and the  
11 association shall not implement any of its provisions. The  
12 administrator shall issue his findings within 10 days after  
13 receipt of the resolution.

14 (h) The membership in a mutual association of a withdrawable  
15 account holder who has filed an application for withdrawal or  
16 whose account is mature and due shall remain unimpaired for so  
17 long as any withdrawal value remains to his credit upon the books  
18 of the association.

19 (i) An association may not obligate itself to pay maturities  
20 and withdrawals under any provisions other than the ones set  
21 forth in this section without prior approval of the  
22 administrator.

23 "§ 54B-125. Emergency limitations.--The administrator, with  
24 the approval of the Governor, may impose a limitation upon the  
25 amounts withdrawable or payable from withdrawable accounts of  
26 State associations during any specifically defined period when  
27 such limitation is in the public interest and welfare.

28

1       "§ 54B-126.   Forced retirement of withdrawable accounts.-- (a)  
2       At any time that funds may be on hand and available for such a  
3       purpose, and the bylaws of an association and withdrawable  
4       account contracts so provide, an association shall have the  
5       authority and right to redeem all or any portion of its  
6       withdrawable accounts which have not been pledged as security for  
7       loans by forcing the retirement thereof. The number of and total  
8       amount of such withdrawable accounts to be retired by an  
9       association shall be determined by the board of directors.

10       (b)   An association shall give notice by certified mail to the  
11       last address of each holder of an affected withdrawable account  
12       of at least 30 days. The redemption price of withdrawable  
13       accounts so retired shall be the full withdrawal value of the  
14       account, as determined on the last dividend date, plus all  
15       dividends on withdrawable accounts credited or paid as of the  
16       effective retirement date. Dividends shall continue to accrue  
17       and be paid or credited by the association to the withdrawable  
18       accounts to be retired up to and including the effective  
19       retirement date.

20       (c)   If the required notice has been properly given, and if on  
21       the effective retirement date the funds necessary for payment  
22       have been set aside so as to be available, and shall continue to  
23       be available therefor, dividends on those withdrawable accounts  
24       called for forced retirement shall cease to accrue after the  
25       effective retirement date. All rights with respect to such  
26       accounts shall, after the effective retirement date, terminate,  
27       except only the right of the holder of the retired withdrawable  
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1 account to receive the full redemption price.

2 (d) No association may redeem withdrawable accounts by forced  
3 retirement whenever it has on file applications for withdrawal,  
4 or maturities which have not yet been acted upon and paid.

5 "§ 54B-127. Negotiable orders of withdrawal.--Notwithstanding  
6 any other provisions of law, the administrator shall by  
7 regulation, authorize associations to accept deposits to savings  
8 accounts which may be withdrawn or transferred on or by  
9 negotiable or transferable order or authorization to the  
10 association.

11 "§ 54B-128. Option on nonnegotiable orders of withdrawal.--  
12 Notwithstanding any other provisions of law, the administrator  
13 may by regulation authorize State associations to establish  
14 nonnegotiable orders or authorizations of withdrawal.

15 "§ 54B-129. Joint accounts.--(a) Any two or more persons may  
16 open or hold a withdrawable account or accounts. The  
17 withdrawable account and any balance thereof shall be held by  
18 them as joint owners with right of survivorship, and unless  
19 otherwise agreed, payment by the association to any such persons  
20 shall be a total discharge of the association's obligation as to  
21 the amount so paid. A pledge of such account by any holder or  
22 holders shall, unless otherwise specifically agreed upon, be a  
23 valid pledge and transfer of such account, or of the amount so  
24 pledged, and shall not operate to sever or terminate the joint  
25 and survivorship ownership of all or any part of the account.

26 (b) Nothing herein contained shall be construed to repeal or  
27 modify any of the provisions of G.S. 105-24, relating to the  
28

1 administration of the estate tax laws of this State, or  
2 provisions of laws relating to estate taxes; nor shall the  
3 provisions herein contained regulate or limit the rights and  
4 liabilities of the parties having an interest in such  
5 withdrawable account as among themselves, but shall instead  
6 regulate, govern and protect the association in its relationship  
7 with such joint owners of withdrawable accounts as herein  
8 provided.

9 (c) No addition to such account, nor any withdrawal, payment  
10 or revocation shall affect the nature of the account as a joint  
11 account with right of survivorship.

12 "§ 54B-130. Trust accounts.--(a) If any one or more persons  
13 holding or opening a withdrawable account shall execute a written  
14 agreement with the association, providing for the account to be  
15 held in the name of such person or persons as trustee or trustees  
16 for one or more persons designated as beneficiaries, the account  
17 and any balance thereof shall be held as a trust account, and  
18 unless otherwise agreed upon between the trustees and the  
19 association:

20 (1) any such trustee during his lifetime may change any  
21 designated beneficiaries by a written direction to  
22 the association; and

23 (2) any such trustee may withdraw or receive payment in  
24 cash or check payable to his personal order, and  
25 such payment or withdrawal shall constitute a  
26 revocation of the agreement as to the amount  
27 withdrawn; and  
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1           (3) upon the death of the surviving trustee, the person  
2           or persons designated as beneficiaries who are  
3           living at the death of the surviving trustee shall  
4           be the holder or holders of the account, as joint  
5           owners with right of survivorship if more than one,  
6           and payment by the association to the holder or any  
7           of them shall be a total discharge of the  
8           association's obligation as to the amount paid.

9       (b) If a person opening or holding a withdrawable account  
10       shall execute a written agreement with an association providing  
11       that upon the death of the person named as holder, that the  
12       account shall be paid to or held by another designated person or  
13       persons, then the account and any balance thereof, shall be held  
14       as a payment on death account and unless otherwise agreed between  
15       the person executing such agreement and the association:

16           (1) Upon the death of the holder of such a withdrawable  
17           account, the person designated by him and who has  
18           survived him shall be the owner of the account, and  
19           payment made by the association to any such person  
20           shall be a total discharge of the association's  
21           obligation as to the amount paid;

22           (2) The person to whom such account is issued may  
23           change during his lifetime the designation of any  
24           of the persons who are to be holders of the account  
25           at his death by a written direction to the  
26           association; and

27           (3) The person to whom such account is issued may  
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1                withdraw or receive payment, and payment so made by  
2                the association shall be a total discharge of the  
3                association's liability as to the amount paid.

4        (c)    Whenever no beneficiary of a trust account or no person  
5        designated to hold at death in a payment on death account  
6        survives the last trustee to die or the person to whom the  
7        payment on death account is issued, then the account and any  
8        balance thereof which exists shall be held by the trustee or  
9        holder of the payment on death account, in his own right and for  
10       his own use and benefit unless otherwise agreed upon prior to  
11       such death of the last beneficiary or person designated to hold  
12       at death.

13       (d)    No addition to such accounts, nor any withdrawal, payment,  
14       revocation or change of beneficiary or payee shall affect the  
15       nature of such accounts as trust accounts or payment on death  
16       accounts.

17       "§ 54B-131. Liens on withdrawable accounts.--Every association  
18       shall have a lien, without further agreement or pledge, upon all  
19       withdrawable accounts owned by any member or customer to whom or  
20       upon whose behalf the association has made an unsecured advance  
21       of money by loan; and upon the default in the repayment or  
22       satisfaction thereof the association may, with 30 days notice to  
23       the member or customer, cancel on its books all or any part of  
24       the withdrawable accounts owned by such member or customer, and  
25       apply the value of such accounts in payment on account of such  
26       obligation. Any association may accept the pledge of  
27       withdrawable accounts in such association owned by a member or  
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1 customer, other than the borrower as additional security for any  
2 loan secured by a withdrawable account or by a withdrawable  
3 account and real property, or as additional security for any real  
4 property loan.

5 "§ 54B-132. Minors as withdrawable account holders.--As  
6 association may issue a savings account to a minor as the sole  
7 and absolute owner and receive payments, pay withdrawals, accept  
8 pledges and act in any other manner with respect to such account  
9 on the order of the minor with like effect as if he were of full  
10 age and legal capacity. Any payment to a minor shall be a  
11 discharge of the association to the extent thereof. The account  
12 shall be held for the exclusive right and benefit of the minor  
13 free from the control of all persons, except creditors.

14 "§ 54B-133. Withdrawable accounts as deposit of securities.--  
15 Notwithstanding any restrictions or limitations contained in any  
16 law of this State, the withdrawable accounts of any State  
17 association or of any federal association having its principal  
18 office in this State, may be accepted by any agency, department  
19 or official of this State in any case wherein such agency,  
20 department or official acting in its or his official capacity  
21 requires that securities be deposited with such agency,  
22 department or official.

23 "§ 54B-134. New account books.--A new account book or  
24 certificate or other evidence of ownership of a withdrawable  
25 account may be issued in the name of the holder of record at any  
26 time when requested by such holder or his legal representative  
27 upon proof satisfactory to the association that the original  
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1 account book or certificate has been lost or destroyed. Such new  
2 account book or certificate shall expressly state that it is  
3 issued in lieu of the one lost or destroyed and that the  
4 association shall in no way be liable thereafter on account of  
5 the original book or certificate. The association may in its  
6 bylaws require indemnification against any loss that might result  
7 from the issuance of the new account book or certified  
8 certificate.

9 "§ 54B-135. Transfer of withdrawable accounts.--The owner of a  
10 withdrawable account may transfer his rights therein absolutely  
11 or conditionally to any other person eligible to hold the same  
12 but such transfer may be made on the books of the association  
13 only upon presentation of evidence of transfer satisfactory to  
14 the association, and accompanied by the proper application for  
15 transfer by the transferor and transferee, who shall accept such  
16 account subject to the terms and conditions of the savings  
17 contract, the bylaws of the association, the provisions of its  
18 certificate of incorporation, and all rules and regulations of  
19 the administrator. Notwithstanding the effectiveness of such a  
20 transfer between the parties thereto, the association may treat  
21 the holder of record of a withdrawable account as the owner  
22 thereof for all purposes, including payment and voting (in the  
23 case of a mutual association) until such transfer and assignment  
24 has been recorded by the association.

25 "§ 54B-136. Authority of power of attorney.--An association  
26 may continue to recognize the authority of an individual holding  
27 a power of attorney in writing to manage or to make withdrawals  
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1 either in whole or in part from the withdrawable account of a  
2 customer or member until it receives written or actual notice of  
3 death or of adjudication of incompetency of such member or  
4 revocation of the authority of such individual holding such power  
5 of attorney. Payment by the association to an individual holding  
6 a power of attorney prior to receipt of such notice shall be a  
7 total discharge of the association's obligation as to the amount  
8 so paid.

9 "§ 54B-137 to 54B-149. Reserved for future codification  
10 purposes.

11 "ARTICLE 7.

12 "Loans.

13 "§ 54B-150. Manner of making loans.--(a) The bylaws of an  
14 association shall provide for procedures by which loans are to be  
15 considered, approved and made by the association.

16 (b) All actions on loan applications to the association shall  
17 be reported to the board of directors at its next meeting.

18 "§ 54B-151. Permitted loans.--(a) An association may lend  
19 funds on the sole security of pledged withdrawable accounts, but  
20 no loan so made shall exceed the withdrawal value of the pledged  
21 account. However, no such loan shall be made when an association  
22 has applications for withdrawals or maturities which have not  
23 been paid.

24 (b) An association may lend funds on the security of real  
25 property:

26 (1) of such value, determined in accordance with the  
27 provisions of this Chapter and the rules and  
28

- 1 regulations concerning appraisals, sufficient to  
2 provide good and ample security for the loan; and  
3 (2) which has a fee simple title, totally free from  
4 encumbrances except as permitted within this  
5 Article; or  
6 (3) which has a leasehold title extending or renewable  
7 automatically or at the option of the holder or at  
8 the option of the association for a period of at  
9 least 10 years beyond the maturity of the loan; and  
10 (4) which has a clear title established by such  
11 evidence of title as is consistent with sound  
12 lending practices; and  
13 (5) where the security interest in such real property  
14 is evidenced by an appropriate written instrument  
15 creating or constituting a first and prior lien on  
16 real property, and the loan is evidenced by a note,  
17 bond or similar written instrument; or  
18 (6) where the security interest in such real property  
19 is evidenced by an appropriate written instrument  
20 creating or constituting a second or junior lien on  
21 real property which is subject only to a mortgage  
22 or deed of trust securing a commercial loan or a  
23 residential loan made by the association or another  
24 lender; and  
25 (7) where the security property may be subject also to  
26 taxes and special assessments not yet due and  
27 payable.  
28

1 (c) An association may lend funds on the security of the whole  
2 of the beneficial interest in a trust in which the trust property  
3 consists of real property of the type upon which a loan would be  
4 permitted under G.S. 54B-151(b).

5 (d) An association may lend funds on the security of bonds  
6 issued as general obligations of or guaranteed by the United  
7 States, bonds issued as general obligations of this State, and  
8 bonds issued as general obligations of any county, city, town,  
9 village, school district, sanitation or park district, or other  
10 political subdivision or municipal corporation of this State.  
11 The amount of such loan made under the authority of this  
12 subsection shall not exceed ninety percent (90%) of the face  
13 value of the bonds which serve as security.

14 (e) An association may invest in construction loans, the  
15 proceeds of which, under the terms of a written contract between  
16 a lender and a borrower, are to be disbursed periodically as such  
17 construction work progresses. Such loans may include advances  
18 for the purchase price of the real property upon which such  
19 improvements are to be constructed. Any construction loan may be  
20 converted into a loan with permanent financing, and the term of  
21 the permanent financing shall be considered to begin at the end  
22 of the term allowed for construction.

23 (f) An association may lend funds without requiring security.  
24 No unsecured loan shall exceed the maximum amount authorized by  
25 regulation by the administrator.

26 (g) An association may invest in loans secured by a lien on  
27 unimproved real property.  
28

1       (h)    An association may invest in loans secured by the cash  
2   surrender value of any life insurance policy on the life of the  
3   borrower.   However, the amount of such loan shall in no event  
4   exceed ninety percent (90%) of the cash surrender value of such  
5   life insurance policy.

6       (i)    An association may invest in loans, obligations and  
7   advances of credit made for the payment of expenses of college or  
8   university education. Such loans may be secured, partly secured  
9   or unsecured, and the association may require a comaker or  
10   comakers, an insurance guarantee under a governmental student  
11   loan guarantee plan, or other protection against contingencies.  
12   The borrower shall certify to the association that the proceeds  
13   of the loan are to be used by a full-time student solely for the  
14   payment of expenses of college or university education or  
15   industrial education center, technical institute or community  
16   college education.

17       (j)    An association may lend funds on any collateral deemed  
18   sufficient by the board of directors to properly secure loans;  
19   however, if the collateral consists of stock or equity securities  
20   of any kind, the stock or securities must be listed on a national  
21   stock exchange or regularly quoted and offered for trade on an  
22   over-the-counter market.

23       (k)    An association may lend funds on the security of a mobile  
24   home subject to such rules and regulations governing such loans  
25   as may be promulgated by the administrator.

26       "§ 54B-152. Real property encumbrances.--(a) Real property is  
27   deemed encumbered within the meaning of this Chapter unless the  
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1 security instrument thereon establishes a first lien upon such  
2 real property or interest therein.

3 (b) Notwithstanding the provisions of the immediately  
4 preceding subsection, real property is not deemed encumbered  
5 within the meaning of this Chapter merely by reason of the  
6 existence of:

7 (1) an instrument reserving a right-of-way, sewer  
8 rights, or rights in wells; or

9 (2) building restrictions or other restrictive  
10 covenants; or

11 (3) a lease under which rents or profits are reserved  
12 by the owner; or

13 (4) current taxes or assessments not yet payable; or

14 (5) other encumbrances which, in accordance with sound  
15 lending practices in the locality, are not regarded  
16 as constituting defects in title to real property.

17 "§ 54B-153. Prohibited security.--No association may accept  
18 its own capital stock or its own mutual capital certificates as  
19 security for any loan made by such association.

20 "§ 54B-154. Insider loans.--(a) Except as provided in this  
21 section, no association shall make any loan or extension of  
22 credit in any manner to any director, officer or member of the  
23 immediate family of such person or to any partnership, company or  
24 business enterprise controlled by such person.

25 (b) An association may make a loan or extension of credit to a  
26 director, officer or member of the immediate family of such  
27 person or to any partnership, company or business enterprise  
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1 controlled by such person where such loan or extension of credit  
2 is made in the ordinary course of business of the association,  
3 does not involve a risk of collectibility which would be greater  
4 than normal, and does not present any other unfavorable terms to  
5 the association. Such loan or extension of credit shall be  
6 limited to the following categories:

7 (1) loans secured by a single-family dwelling owned and  
8 occupied by the borrower as his principal  
9 residence;

10 (2) loans in the aggregate not exceeding an amount  
11 specified by the rules and regulations for adding  
12 to, improving, altering, repairing, equipping, or  
13 furnishing a single-family dwelling owned and  
14 occupied by the borrower as his principal  
15 residence;

16 (3) loans secured by a mobile home owned and occupied  
17 by the borrower as his principal residence;

18 (4) loans secured by pledged withdrawable accounts  
19 maintained by such person, members of his immediate  
20 family, or any partnership, company or business  
21 enterprise controlled by such person;

22 (5) loans in the aggregate not exceeding an amount  
23 specified by rules and regulations for the payment  
24 of educational expenses;

25 (6) loans or extensions of credit in conjunction with  
26 the use of credit cards, NOW accounts, and consumer  
27 loans. Such loans in the aggregate shall not  
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1                   exceed the amount specified by rules and  
2                   regulations.

3       (c) Each such loan or extension of credit made under the  
4 authority of this section shall be approved by a resolution by  
5 the board of directors containing safeguards adequate to prevent  
6 a misuse or abuse of the lending powers of the board with respect  
7 to loans to a director, officer, member of the immediate family  
8 of such person, or to a partnership, company or business  
9 enterprise controlled by such person.

10       "§ 54B-155. Rule-making power of administrator.--The  
11 administrator shall, from time to time, promulgate such rules and  
12 regulations in respect to loans permitted to be made by State  
13 associations as may be reasonably necessary to assure that such  
14 loans are in keeping with sound lending practices and to promote  
15 the purposes of this Chapter; provided, that such rules and  
16 regulations shall not prohibit an association from making any  
17 loan which is a permitted loan for federal associations under  
18 federal regulatory authority.

19       "§ 54B-156. Loan expenses and fees.--(a) An association may  
20 require borrowers to pay all reasonable expenses incurred by the  
21 association in connection with making, closing, disbursing,  
22 extending, adjusting or renewing loans. Such charges may be  
23 collected by the association from the borrower and paid to any  
24 persons, including any director, officer or employee of the  
25 association who may render services in connection with the loan,  
26 or such charges may be paid directly by the borrower.

27       (b) An association may require a borrower to pay a reasonable  
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1 charge for late payments made during the course of repayment of a  
2 loan. Subject to the provisions of G.S. 24-10(e) and (f), such  
3 payments may be levied only upon such terms and conditions as  
4 shall be fixed by the association's board of directors and agreed  
5 to by the borrower in the loan contract.

6 "§ 54B-157. Loans conditioned on certain transactions  
7 prohibited.--No association or service corporation thereof shall  
8 require as a condition of making a loan that the borrower  
9 contract with any specific person or organization for particular  
10 services.

11 "§ 54B-158. Insured or guaranteed loans.--An association may  
12 make insured or guaranteed loans in accordance with the  
13 provisions of G.S. 53-45.

14 "§ 54B-159. Purchase of loans.--An association may invest any  
15 funds on hand in the purchase of loans of a type which the  
16 association could make in accordance with the provisions of this  
17 Chapter.

18 "§ 54B-160. Participation in loans.--An association may invest  
19 in a participating interest in loans of a type which the  
20 association would be authorized to originate; provided, that the  
21 other participants are instrumentalities of or corporations owned  
22 solely or in part by the United States or this State, or are  
23 State associations, or are federal associations, or are service  
24 corporations of State or federal associations.

25 "§ 54B-161. Sale of loans.--An association may sell without  
26 recourse any loan, including any participating interest therein.  
27 Loans may be assigned or pledged with recourse to any Federal  
28

1 Home Loan Bank or any mutual deposit guaranty association of  
2 which the association is a member or to any bank as a requirement  
3 of borrowing.

4 "§ 54B-162. Power to borrow money.--An association, in its  
5 certificate of incorporation or in its bylaws, may authorize the  
6 board of directors to borrow money and the board of directors may  
7 by resolution adopted by a vote of at least two-thirds of the  
8 entire board duly recorded in the minutes may authorize the  
9 officers of the association to borrow money for the association  
10 on such terms and conditions as it may deem proper; provided,  
11 that the total amount of money borrowed shall at no time exceed  
12 fifty percent (50%) of the gross assets of the association.  
13 However, an association may borrow without limit from any agency  
14 or instrumentality of the United States, or from any agency or  
15 instrumentality of this State, or from any mutual deposit  
16 guaranty association, upon such terms and conditions as the  
17 agency, instrumentality or association may impose.

18 "§ 54B-163. Methods of loan repayment.--(a) An association  
19 shall agree in writing with borrowers as to the method or plan by  
20 which an indebtedness shall be repaid.

21 (b) All methods or plans of repayment which shall be employed  
22 shall mature and pay off the loan within a term which shall not  
23 exceed 40 years from the date of the making of the loan;  
24 provided, that the board of directors may authorize the renewal  
25 or extension of the time for repayment of any loan made by the  
26 association.

27 "§ 54B-164. Loans to one borrower.--The aggregate amount of  
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1 mortgage loans outstanding granted by an association to any one  
2 borrower shall not exceed ten percent (10%) of the net withdrawal  
3 value of such association's withdrawable accounts or an amount  
4 equal to the total net worth of such association, whichever  
5 amount is less.

6 "§ 54B-165. Legal services.--(a) A State association or  
7 service corporation thereof must notify borrowers at some point  
8 prior to the loan commitment of their right to select the  
9 attorney or law firm rendering legal services in connection with  
10 the loan, and the person or organization rendering insurance  
11 services in connection with the loan. Such persons or  
12 organizations must be approved by the association's board of  
13 directors.

14 (b) A State association or service corporation thereof may  
15 require borrowers to reimburse such association for legal  
16 services rendered to it by its own attorney only when the fee is  
17 limited to legal services required by the making of such loan.

18 "§ 54-B-166. Non-conforming investments.--Unless otherwise  
19 provided, every loan or other investment made in violation of  
20 this Chapter shall be due and payable according to its terms and  
21 the obligation thereof shall not be impaired; provided, that such  
22 violation consists only of the lending of an excessive sum on  
23 authorized security or of investing in an unauthorized  
24 investment.

25 "§ 54B-167 to 54B-179. Reserved for future codification  
26 purposes.

27 "ARTICLE 8.

28 "Other Investments.

1       "§ 54B-180.   Other investments.--In addition to the loans and  
2   investments permitted under Article 7 of this Chapter, the assets  
3   of a State association in excess of the demands of its members or  
4   customers may be invested subject to the approval of the board of  
5   directors only as described under the provisions of this Article.

6       "§ 54B-181.   Business property of an association.--An  
7   association may invest in real property and equipment necessary  
8   for the conduct of its business and in real property to be held  
9   for its future use. Such association may invest in an office  
10   building or buildings, and appurtenances for the purpose of the  
11   transaction of such association's business or for rental. No  
12   such investment may be made without the prior written approval of  
13   the administrator if the total amount of such investments exceeds  
14   the association's net worth.

15       "§ 54B-182.   United States obligations.--An association may  
16   invest in any obligation issued and fully guaranteed in principal  
17   and interest by the United States Government or any  
18   instrumentality thereof.

19       "§ 54B-183.   North Carolina obligations.--An association may in  
20   any obligation issued and fully guaranteed in principal and  
21   interest by the State of North Carolina or any instrumentality  
22   thereof.

23       "§ 54B-184.   Federal Home Loan Bank obligations.--An  
24   association may invest in the stock of the Federal Home Loan Bank  
25   of which such association is a member, and in bonds or other  
26   evidences of indebtedness or obligation of any Federal Home Loan  
27   Bank.

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1       "§ 54B-185, Deposits in banks.--An association may invest in  
2       certificates of deposit, time deposits, savings accounts, or  
3       demand deposits of such banks as are approved by the board of  
4       directors of the association.

5       "§ 54B-186. Deposits in other associations.--An association  
6       may invest in withdrawable accounts of any State association, or  
7       of any federal association having its principal office within  
8       this State, up to an amount equal to the amount of insurance  
9       coverage on such association's withdrawable accounts by either  
10      the FSLIC or by an approved mutual deposit guaranty association.

11      "§ 54B-187. Federal National Mortgage Association  
12      obligations.--An association may invest in stock or other  
13      evidences of indebtedness or obligation of the Federal National  
14      Mortgage Association, or any successor thereto.

15      "§ 54B-188. Municipal and county obligations.--An association  
16      may invest in bonds or other evidences of indebtedness which are  
17      direct general obligations of any county, city, town, village,  
18      school district, sanitation or park district, or other political  
19      subdivision or municipal corporation of this State; or in bonds  
20      or other evidences of indebtedness which are payable from  
21      revenues or earnings specifically pledged therefor, which are  
22      issued by the county or an adjoining county or a political  
23      subdivision or municipal corporation of a county in this state

24      "§ 54B-189. Stock in education agency.--An association may  
25      invest in stock or obligations of any corporation doing business  
26      in this State, or of any agency of this State or of the United  
27      States, where the principal business of such corporation or  
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1 agency is to make loans for the financing of a college or  
2 university education, or education at an industrial education  
3 center, technical institute or community college in this State.

4 "§ 54B-190. Industrial development corporation stock.--An  
5 association may invest in stock or other evidence of indebtedness  
6 or obligation of business or industrial development corporations  
7 chartered by this State or by the United States.

8 "§ 54B-191. Urban renewal investment corporation stock.--An  
9 association may invest in stock or other evidence of indebtedness  
10 or obligation of an urban renewal investment corporation  
11 chartered under the laws of this State or of the United States.

12 "§ 54B-192. Urban renewal projects.--(a) An association may  
13 invest in the initial purchase and development, or the purchase  
14 or commitment to purchase after completion, of unimproved  
15 residential real property or improved residential real property  
16 for sale or rental, including projects for the reconstruction,  
17 rehabilitation or rebuilding of residential properties to meet  
18 the minimum standards of health and occupancy prescribed by  
19 appropriate local authorities, and the provision of  
20 accommodations for retail stores, shops and other community  
21 services which are reasonably incident to such housing projects.  
22 No such investment shall be made under the provisions of this  
23 section without the prior approval of the administrator. The  
24 administrator may approve such investment under the provisions of  
25 this section only when the association shows:

- 26 (1) that the association has adequate assets available  
27 for such an investment; and  
28



1           (2) that the amount of the proposed investment does not  
2           exceed ninety percent (90%) of the reasonable  
3           market value of the property or interest therein;  
4           and

5           (4) that the proposed project is to be located in an  
6           area, including any contiguous area acquired  
7           incidentally thereto, determined by the  
8           administrator to be an urban renewal,  
9           redevelopment, blighted or conservation area, or  
10          any similar area provided for by the laws of this  
11          State or of the United States, or local ordinances  
12          for slum clearance, conservation, blighted area  
13          clearance, redevelopment, urban renewal or of a  
14          similar nature or purpose.

15       (b) Nothing herein contained shall prohibit an association  
16       from developing or building on land acquired by it under any  
17       other provisions of this Chapter; nor shall an association be  
18       prohibited from completing the construction of buildings pursuant  
19       to any construction loan contract where the borrower has failed  
20       to comply with the terms of such contract.

21       "§ 54B-193. Loans on sufficient collateral.--An association  
22       may invest in loans secured by any collateral deemed sufficient  
23       by the board of directors to properly secure loans; however, if  
24       the collateral consists of stock or equity securities of any  
25       kind, the stock or securities must be listed on a national stock  
26       exchange or regularly quoted and offered for trade on an over-  
27       the-counter market.

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1       "§ 54B-194.   Service corporations.--(a)   Any association or  
2   group of associations whose principal offices are located within  
3   this State, may establish service corporations under the  
4   provisions of Chapter 55 for corporate organization, provided  
5   that the administrator receives copies of the proposed articles  
6   of incorporation and bylaws for approval, prior to filing them  
7   with the Secretary of State. Any such association may also  
8   invest in the capital stock, obligations or other securities of  
9   existing service corporations.

10       (b)   No association may make any investment in service  
11   corporations if its aggregate investment would exceed five  
12   percent (5%) of its total assets.

13       (c)   Service corporations shall be subject to audit and  
14   examination by the administrator, and the cost of examination  
15   shall be paid by the service corporation.

16       (d)   The permitted activities of a service corporation shall be  
17   described in the rules and regulations as promulgated by the  
18   administrator. In addition, a service corporation may engage in  
19   those activities which are approved by the Federal Home Loan Bank  
20   Board for service corporations owned solely by federal  
21   associations who have their principal offices in this State,  
22   unless such activities are prohibited by the administrator.

23       (e)   The location of the principal and branch offices of a  
24   service corporation must be approved by the administrator.

25       "§ 54B-195.   Any loan or investment permitted for federal  
26   associations.--Subject to such limitations and restrictions as  
27   the administrator may prescribe through rules and regulations,  
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1 any State association is authorized and permitted to make any  
2 loan or investment which may be permitted by the Federal Home  
3 Loan Bank Board, the Federal Savings and Loan Insurance  
4 Corporation, and the United States Congress for federal  
5 associations whose principal offices are located within this  
6 State. Every loan or investment made by an association organized  
7 and operated under the provisions of this Chapter shall for all  
8 purposes be considered to have been permitted loans or  
9 investments if federal associations were authorized to make such  
10 at the time they were made by such an association.

11 "§ 54B-196. Effect of change in law or regulation.--Any loan  
12 or investment made by an association which was in compliance with  
13 the law or regulations in effect at the time such loan or  
14 investment was made will remain a legal loan or investment even  
15 though the power to make such loans or investments in the future  
16 is amended or revoked.

17 "§ 54B-197 to 54B-209. Reserved for future codification  
18 purposes.

19 "ARTICLE 9.

20 "Liquidity Fund.

21 "§ 54B-210. Components of liquidity fund.--(a) Every State  
22 association shall at all times have on hand and unpledged, cash,  
23 investments in obligations of the United States government, or  
24 the government of the State of North Carolina, or stock in the  
25 Federal Home Loan Bank, or deposits in any mutual deposit  
26 guaranty association, or bonds issued by the Federal Home Loan  
27 Bank, or funds on deposit in a Federal Reserve Bank or in other  
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1 bank or banks as may have been approved by a majority of the  
2 entire board of directors, in an amount set by the Commission  
3 equal to at least four percent (4%) of the net withdrawal value  
4 of the association's withdrawable account, or two hundred fifty  
5 thousand dollars (\$250,000), whichever is greater, as the  
6 liquidity fund and held to assure the liquidity of such  
7 association. Such investments and funds on deposit shall be  
8 readily marketable and shall not exceed a term of five years.

9 "§ 54B-211. Renewal of liquidity fund.--If the liquidity fund  
10 falls below the amount required by the Commission, the association  
11 shall make no new real property loans until the required level  
12 has been attained. The refinancing, recasting or renewal of  
13 loans previously made and loans made as a result of foreclosure  
14 sales under instruments held by the association shall not be  
15 considered as new loans, within the meaning of this section.

16 "§ 54B-212 to 54B-215. Reserved for future codification  
17 purposes.

18 "ARTICLE 10.

19 "General Reserve Account.

20 "§ 54B-216. General Reserve Account.--(a) Every State  
21 association shall establish and maintain a General Reserve  
22 Account for the sole purpose of meeting losses. No association  
23 may pay dividends on stock from its General Reserve Account.  
24 Such account shall exist separately from any specific loss  
25 reserve accounts which an association may choose or be required  
26 by regulation to maintain. Such account must be maintained as of  
27 the dates prescribed by the Commission at a level set by the  
28

1 Commission based on the association's assets. In determining the  
2 level of the General Reserve Account, the Commission shall  
3 evaluate the risk attributable to various types of assets and  
4 shall establish percentages for each type of asset based on its  
5 level of risk.

6 (b) In the case of a newly chartered mutual association, such  
7 General Reserve Account shall be established and maintained  
8 incrementally as withdrawable accounts flow into the association.  
9 A portion of said inflowing accounts shall be transferred to the  
10 General Reserve Account so that it totals at least the required  
11 percentage of the net withdrawal value of an association's  
12 withdrawable accounts.

13 (c) In the case of a newly chartered stock association, the  
14 permanent capital reserve required by G.S. 54B-12(b) (2) shall be  
15 deemed to be a constituent part of and not supplemental to the  
16 General Reserve Account requirement. Therefore, a minimum of  
17 five hundred thousand dollars (\$500,000) shall be in the General  
18 Reserve Account of a stock association until such time as the net  
19 withdrawal value of its withdrawable accounts exceeds ten million  
20 dollars (\$10,000,000). Thereafter, the General Reserve Account  
21 should be maintained incrementally at the required percentage as  
22 the net withdrawal value of its withdrawable accounts continues  
23 to grow.

24 (d) If the General Reserve Account of an association falls  
25 below the required percentage, such association, in the  
26 accounting period during which the deficiency occurs, shall  
27 transfer from its net income before payment of dividends on stock  
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1 or mutual capital certificates to its General Reserve Account or  
2 a sum sufficient to equal the required percentage.

3 (e) In addition to the transfer provisions required in  
4 subsection (d) immediately above, a stock association may  
5 transfer from additional paid-in capital to the General Reserve  
6 Account in order to meet the required percentage of the net  
7 withdrawal value of the association's withdrawable accounts.

8 (f) Failure to meet the required percentage for the reserve  
9 account may be grounds for supervisory action by the  
10 administrator.

11 "§ 54B-217 to 54B-220. Reserved for future codification  
12 purposes.

13 "ARTICLE 11.

14 "Foreign Associations.

15 "§ 54B-221. Allowed to do business.--A corporation or  
16 association chartered by another state to conduct the savings and  
17 loan business may be certified by this State for the purpose of  
18 conducting the business of a savings and loan association in the  
19 manner hereinafter provided. Unless so certified, no foreign  
20 association shall conduct a savings and loan business in this  
21 State.

22 "§ 54B-222. Application by a foreign association.--Application  
23 by a foreign association to conduct a savings and loan business  
24 in this State shall be made to the administrator. Upon making  
25 such application, the association shall file with the  
26 administrator two certified copies of its charter or certificate  
27 of incorporation, and bylaws, and thereafter certified copies of  
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1 all amendments thereto; the names and addresses of its officers  
2 and directors; and a report of its condition, in such form as may  
3 be prescribed by the administrator, which shall be verified by  
4 oath of such officers and other persons as the administrator  
5 shall designate. The administrator may call for additional  
6 reports.

7 "§ 54B-223. Certificate of authority to enter State.--If the  
8 administrator finds that the association has good assets of  
9 sufficient value to cover all its liabilities and that its  
10 methods of doing business are safe and not contrary to the laws  
11 governing associations in this State, it may be permitted to  
12 conduct the business of a savings and loan association in this  
13 State upon a certificate of authority to enter, which shall be  
14 issued by the administrator only when such association shall have  
15 complied with the further requirements of this Article. The  
16 administrator shall have the authority to conduct, or cause to be  
17 conducted, an examination and investigation, upon the premises of  
18 the association as a prerequisite to the issuance of a  
19 certificate of authority to enter. Such certificate of authority  
20 to enter must be renewed annually for so long as such foreign  
21 association desires to operate within this State. Renewal may  
22 occur upon payment by the association of the appropriate renewal  
23 fee and a determination by the administrator of the association's  
24 continued fitness to operate within this State.

25 "§ 54B-224. Deposit of securities.--The administrator, prior  
26 to issuing a certificate of authority to enter, shall require  
27 every such foreign association to deposit with the administrator  
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1 such securities as he may approve, amounting to at least fifty  
2 thousand dollars (\$50,000). These securities shall be held by  
3 him in trust for the exclusive benefit and security of the  
4 creditors and withdrawable account holders of the foreign  
5 association who are resident in this State and he shall have  
6 authority to require it to deposit additional securities at any  
7 time. No change or transfer of such securities shall be made  
8 without his consent. Such deposit of securities shall be  
9 maintained intact at all times in the full sum required, but the  
10 association making such deposit, so long as it shall continue  
11 solvent and in compliance with all the provisions of this Chapter  
12 applicable to it, may receive the dividends or interest on the  
13 securities deposited, and may from time to time, with the  
14 approval of the administrator withdraw any such securities upon  
15 depositing with the administrator other like securities the par  
16 value of which shall be equal to such as may be withdrawn.

17 "§ 54B-225. Appointment of administrator as attorney.--The  
18 certificate of authority to enter shall be for the current  
19 calendar year only. It shall not be issued until the association  
20 shall by a duly executed instrument filed with the administrator,  
21 constitute as its true and lawful attorney the administrator and  
22 his successors in office, upon whom all original process in any  
23 action or legal proceedings against it may be served, and therein  
24 shall agree that any original process against it which may be  
25 served upon the administrator shall be of the same force and  
26 validity as if served on the association itself, and that the  
27 authority thereof shall continue in force irrevocable so long as  
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1 any liability of the association remains outstanding in this  
2 State. Such service of process shall be made by leaving a copy  
3 of same in the office of the administrator along with a fee of  
4 two dollars (\$2.00) to be taxed in the plaintiff's costs. When  
5 any original process is thus served, the administrator, by letter  
6 directed to the secretary of the association, shall within two  
7 days after such service forward to the secretary a copy of the  
8 process served upon him, and such service shall be deemed  
9 sufficient service upon the association. The administrator shall  
10 keep a record of all such process showing the day and hour of  
11 such service.

12 "§ 54B-226. Certificate required for agent.--No person may  
13 solicit business for, nor act as agent for any foreign  
14 association doing business in North Carolina without having first  
15 procured from the administrator a certificate stating that the  
16 association for which he offers to act is duly certified by this  
17 State to do business in the year in which such person solicits  
18 business or offers to act as agent. The administrator shall be  
19 paid a fee of five hundred dollars (\$500.00) for issuing the  
20 certificate, to be paid by the association for which the same was  
21 issued. Any person violating the provisions of this section  
22 shall be guilty of a misdemeanor.

23 "§ 54B-227. Fees and charges.--Every such association shall  
24 pay for filing two certified copies of its certificate of  
25 incorporation, one hundred dollars (\$100.00); for original or  
26 renewal certificate of authority to enter, three thousand dollars  
27 (\$3,000); for certificate of each agency, five hundred dollars  
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1 (\$500.00); and shall pay a fee set annually by the administrator  
2 for the examination of the association. The administrator may  
3 maintain an action in the name of this State against such  
4 association for the recovery of any such fees in any court of  
5 competent jurisdiction.

6 "§ 54B-228. Subject to North Carolina law.--Any contract made  
7 by any foreign association with any citizen of this State shall  
8 be deemed and considered a North Carolina contract, and shall be  
9 so contrued by all the courts of this State according to the laws  
10 thereof.

11 "§ 54B-229 to 54-235. Reserved for future codification  
12 purposes.

13 "ARTICLE 12.

14 "Mutual Deposit Guaranty Associations.

15 "§ 54B-236. Definitions.--The term 'institution' as used in  
16 this Article shall mean savings and loan associations organized  
17 under the provisions of this Chapter, or credit unions organized  
18 under the provisions of Article 10, Subchapter III of Chapter 54  
19 of the General Statutes.

20 "§ 54B-237. Organization of a mutual deposit guaranty  
21 association.--(a) Any number of institutions, not less than 25,  
22 may become incorporated as a mutual deposit guaranty association  
23 without capital stock subject to the limitations prescribed in  
24 this Article.

25 (b) Articles of incorporation of a guaranty association shall  
26 be filed in the office of the Secretary of State. The Secretary  
27 of State shall, upon receipt of such articles, transmit a copy of  
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1     them to the administrator and shall not record them until  
2     authorized to do so by the administrator.

3     "§ 54B-238. Examination and certification by administrator.--

4     (a) Upon receipt from the Secretary of State of a copy of the  
5     articles of incorporation of a proposed guaranty association, the  
6     administrator shall at once examine all the facts connected with  
7     the formation of the proposed corporation. If the articles of  
8     incorporation are correct in form and substance and the  
9     examination shows that such corporation, if formed, would be  
10    entitled to commence the business of a guaranty association, the  
11    administrator shall so certify to the Secretary of State.

12    (b) The administrator may refuse to make such certification if  
13    upon examination he has reason to believe the proposed  
14    corporation is to be formed for any business other than assuring  
15    the liquidity of member institutions and guaranteeing deposits  
16    therein, if he has reason to believe that the character and  
17    general fitness of the incorporators are not such as to command  
18    the confidence of the general public or if the best interests of  
19    the public will not be promoted by its establishment.

20    "§ 54B-239. Recordation of articles of incorporation.--Upon  
21    receipt of the certification provided for in G.S. 54B-238, the  
22    Secretary of State shall record the articles of incorporation of  
23    such guaranty association and furnish a certified copy thereof to  
24    the incorporators and to the administrator. Upon such  
25    recordation, such association shall be deemed a corporation. All  
26    papers thereafter filed in the office of the Secretary of State  
27    relating to such corporation shall be recorded as provided by law  
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1 and a certified copy forwarded to the administrator.

2 "§ 54B-240. Proposed amendments submitted to administrator.--  
3 Any proposed amendments to the articles of incorporation of a  
4 mutual deposit guaranty association shall be filed in the office  
5 of the Secretary of State, who shall forward a copy thereof to  
6 the administrator, and shall not record the amendments until  
7 authorized to do so by certification of the administrator.

8 "§ 54B-241. Examination and certification of amendments.--(a)  
9 Upon receipt from the Secretary of State of a copy of proposed  
10 amendments to the articles of incorporation of a mutual deposit  
11 guaranty association, the administrator shall at once examine the  
12 proposed amendments to determine their effect on the operation of  
13 the guaranty association.

14 (b) In the event the proposed amendments are correct in form  
15 and substance and the examination shows that if adopted they  
16 would not change the character or principal business of the  
17 guaranty association, the administrator shall so certify to the  
18 Secretary of State.

19 (c) The administrator may refuse to make certification if upon  
20 examination he has reason to believe that the proposed amendments  
21 would change the character of the business of the guaranty  
22 association or that the best interests of the public will not be  
23 promoted by their adoption.

24 "§ 54B-242. Recordation of amendments.--Upon receipt of the  
25 certification provided for in G.S. 54B-241, the Secretary of  
26 State shall record the amendments to the articles of  
27 incorporation and furnish a certified copy thereof to the mutual  
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1 deposit guaranty association and to the administrator.

2 "§ 54B-243. Reserve for losses.--A mutual deposit guaranty  
3 association shall maintain at all times an amount of funds equal  
4 to no less than one percent (1%) of its insured liability to  
5 cover losses of its members. These funds may include cash,  
6 investments, and reinsurance.

7 "§ 54B-244. Powers of mutual deposit guaranty associations.--A  
8 mutual deposit guaranty association incorporated in accordance  
9 with the provisions of this Article may:

10 (1) assure the liquidity of a member institution;

11 (2) guarantee the free withdrawable accounts in State  
12 associations or credit unions;

13 (3) lend money to a member institution for the purpose of  
14 assuring its liquidity and deposits therein;

15 (4) purchase any assets owned by a member institution for the  
16 purpose of assuring its liquidity and deposits therein;

17 (5) invest any of its funds in:

18 a. bonds or interest-bearing obligations of the United  
19 States or for which the faith and credit of the  
20 United States are pledged for the payment of  
21 principal and interest;

22 b. bonds or interest-bearing obligations of this State;

23 c. farm loans issued under the Federal Farm Loan Act  
24 and amendments thereto;

25 d. notes, debentures, and bonds of a federal home loan  
26 bank issued under the Federal Home Loan Bank Act  
27 and any amendments thereto;

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1 e. bonds or other securities issued under the Home  
2 Owners' Loan Act of 1933 and any amendments  
3 thereto;

4 f. securities acceptable to the United States to secure  
5 government deposits in national banks;

6 g. certificates of deposit of any financial institution  
7 that is subject to examination and supervision by  
8 the United States or by this State;

9 h. bonds or other evidences of indebtedness of counties  
10 and municipalities of the State of North Carolina;  
11 provided, that said bonds or other evidences of  
12 indebtedness of the counties and municipalities  
13 shall have a rating by Moody's Investors Services,  
14 Inc., of not less than AA, and a rating by the  
15 North Carolina Municipal Council, Inc., of not less  
16 than 90 points out of 100 points.

17 i. stock in banking institutions licensed to do  
18 business in this State.

19 (6) issue its capital notes or debentures to member  
20 institutions, provided the holders these capital notes or  
21 debentures shall not be individually responsible for any debts,  
22 contracts, or engagements of the guaranty association issuing the  
23 notes or debentures;

24 (7) borrow money;

25 (8) exercise any corporate power or powers not inconsistent  
26 with, and which may be necessary or convenient to, the  
27 accomplishment of its purposes of assuring liquidity of member  
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1 institutions and guaranteeing deposits therein;

2 (9) serve as receiver of a member institution;

3 (10) make or cause to be made examinations or audits of member  
4 institutions;

5 (11) subject to the administrator's approval, remove from  
6 office, for just cause, any officer, director or employee of a  
7 member institution.

8 "§ 54B-245. Filing of semiannual financial reports.--Each  
9 mutual deposit guaranty association shall on the 30th day of June  
10 and the 31st day of December of each year, or within 40 days  
11 thereafter, file with the administrator a report for the  
12 preceding half year, showing its financial condition at the end  
13 thereof. Such reports shall be in such form and contain such  
14 information as may be prescribed by the administrator.

15 "§ 54B-246. Supervision by administrator.--(a) In addition to  
16 any and all other powers, duties and functions vested in the  
17 administrator under the provisions of this Article, and for the  
18 protection of member institutions and the general public, the  
19 administrator shall have general control and supervision over all  
20 mutual deposit guaranty associations doing business in this  
21 State. Mutual deposit guaranty associations shall be subject to  
22 the control and supervision of the administrator as to their  
23 conduct, organization, management, business practices, reserve  
24 requirements and their financial and fiscal matters. Such  
25 control and supervision is subject to the provisions of G.S.  
26 54B-53(d).

27 (b) The administrator shall have the right, and is hereby  
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1 empowered to issue rules and regulations whenever he deems it  
2 necessary for the administration of this Article as well as rules  
3 and regulations with respect to:

- 4 (1) types of financial records to be maintained by  
5 mutual deposit guaranty associations;  
6 (2) retention periods of various financial records;  
7 (3) internal control procedures of mutual deposit  
8 guaranty associations;  
9 (4) conduct and management of mutual deposit guaranty  
10 associations;  
11 (5) additional reports which may be required by the  
12 administrator.

13 It shall be the duty of the board of directors of the mutual  
14 deposit guaranty association to put into effect and to carry out  
15 such rules and regulations.

16 (c) At least once each year the administrator shall make or  
17 cause to be made an examination into the affairs of each mutual  
18 deposit guaranty association doing business in this State. The  
19 administrator of the Credit Union Division of this State, in his  
20 capacity as supervisor of State chartered credit unions, if he  
21 deems it necessary, may designate agents to participate in such  
22 examination. The expenses of such yearly examination shall be  
23 paid by the mutual deposit guaranty association so examined.

24 "§ 54B-247. Special examinations.--Whenever the administrator  
25 deems it necessary, he may make or cause to be made a special  
26 examination or audit of any mutual deposit guaranty association  
27 doing business in this State, in addition to the regular  
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1 examination provided for by this Article. The expenses of such a  
2 special examination or audit shall be paid by the mutual deposit  
3 guaranty association so examined.

4 "§ 54B-248. Right to enter and to conduct investigations.--The  
5 administrator or any examiner appointed by him shall have access  
6 to and may compel the production of all books, papers,  
7 securities, moneys, and other property of a mutual deposit  
8 guaranty association under examination by him. He may administer  
9 oaths to and examine the officers and agents of such association  
10 as to its affairs.

11 "§ 54B-249. Removal of officers or employees.--The  
12 administrator shall have the right, and is hereby empowered, to  
13 require the board of directors or trustees of any guaranty  
14 association to immediately remove from office any officer,  
15 director, trustee or employee of any mutual deposit guaranty  
16 association doing business in this State, who shall be found by  
17 the administrator to be dishonest, incompetent, or reckless in  
18 the management of the affairs of the mutual deposit guaranty  
19 association, or in violation of the lawful orders, rules and  
20 regulations issued by the administrator, or who violates any of  
21 the laws set forth in Chapter 54B of the General Statutes.

22 "§ 54B-250 to 54B-260. Reserved for future codification  
23 purposes."

24 "ARTICLE 13.

25 "Savings and Loan Holding Companies.

26 "§ 54B-261. Savings and loan holding companies.--(a)  
27 Notwithstanding any other provision of law, any stock association  
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1 may reorganize its ownership, to provide for ownership by a  
2 savings and loan holding company, upon adoption of a plan of  
3 reorganization by a favorable vote of not less than two-thirds of  
4 the members of the board of directors of the association and  
5 approval of such plan of reorganization by the holders of not  
6 less than a majority of the issued and outstanding shares of  
7 stock of the association. The plan of reorganization shall  
8 provide that (i) the resulting ownership shall be vested in a  
9 North Carolina corporation, (ii) all stockholders of the stock  
10 association shall have the right to exchange shares, (iii) the  
11 exchange of stock shall not be subject to State or federal income  
12 taxation, (iv) stockholders not wishing to exchange shares shall  
13 be entitled to dissenters' rights as provided under G.S. 55-113  
14 and (v) the plan of reorganization is fair and equitable to all  
15 stockholders.

16 (b) All limitations or restrictions on the ownership of the  
17 stock of a stock association contained in this Chapter shall be  
18 and hereby are made applicable to the ownership of the stock of a  
19 savings and loan holding company which owns shares of stock of a  
20 stock association organized pursuant to this Chapter.

21 (c) A savings and loan holding company may invest only in (i)  
22 the stock of one or more other stock associations, (ii) deposits  
23 in financial institutions the principal offices of which are  
24 located in North Carolina and (iii) other investments in  
25 accordance with rules and regulations promulgated by the  
26 administrator. However, in no event shall a savings and loan  
27 holding company make any investment not specified by this section  
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1 or not permitted for an association under this Chapter.

2 "§ 54B-262. Supervision of savings and loan holding  
3 companies.--Savings and loan holding companies shall be under the  
4 supervision of the administrator. The administrator shall  
5 exercise all powers and responsibilities with respect to savings  
6 and loan holding companies which he exercises with respect to  
7 associations."

8 Sec. 4. This act is effective upon ratification.

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